

AMENDED IN ASSEMBLY SEPTEMBER 5, 2007

AMENDED IN ASSEMBLY JUNE 28, 2007

AMENDED IN ASSEMBLY JUNE 19, 2007

AMENDED IN SENATE APRIL 19, 2007

SENATE BILL

No. 172

Introduced by Senator Alquist

(Principal coauthor: Assembly Member Solorio)

February 5, 2007

An act to amend Sections ~~290.04, 290.05, 290.3, 290.46, 3000, 1522, 1568.09, 1569.17, and 1596.871~~ of the Health and Safety Code, and to amend Sections 289.5, 290.01, 290.04, 290.05, 290.3, 290.46, 296.2, 311.11, 646.9, 801.1, 803, 1202.7, 1417.8, 3000, 3000.07, 3004, 3060.6, 5054.1, and 5054.2 of, and to amend and renumber Sections 288.3 and 3005 of, to add Sections 290.001, 290.002, 290.003, 290.004, 290.005, 290.006, 290.007, 290.008, 290.009, 290.010, 290.011, 290.012, 290.013, 290.014, 290.015, 290.016, 290.017, 290.018, 290.019, 290.020, 290.021, 290.022, and 290.023 to, and to repeal and add Section 290 to, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 172, as amended, Alquist. Crimes: sex offenders.

Existing law provides for various penalty provisions related to sex offenders.

This bill would make nonsubstantive, conforming changes to those provisions. The bill would make clarifying changes to provisions related to the risk assessment tool to be used to identify sex offenders, and would make related technical changes.

Existing law requires persons who have been convicted of specified crimes, and other persons as required by a court, to register as a sex offender. Existing law sets forth the procedure for doing so.

This bill would reorganize and renumber the provisions that set forth that procedure, and would make conforming technical changes in related provisions of law.

This bill would incorporate additional changes in Section 1522 of the Health and Safety Code, proposed by SB 776, to be operative only if SB 776 and this bill are both chaptered and become effective on or before January 1, 2008, and this bill is chaptered last.

This bill would incorporate additional changes in Section 646.9 of the Penal Code, proposed by AB 289, to be operative only if AB 289 and this bill are both chaptered and become effective on or before January 1, 2008, and this bill is chaptered last.

This bill would declare that it is to take effect immediately as an urgency statute.

*Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.*

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1522 of the Health and Safety Code is*
2 *amended to read:*
3 1522. The Legislature recognizes the need to generate timely
4 and accurate positive fingerprint identification of applicants as a
5 condition of issuing licenses, permits, or certificates of approval
6 for persons to operate or provide direct care services in a
7 community care facility, foster family home, or a certified family
8 home of a licensed foster family agency. Therefore, the Legislature
9 supports the use of the fingerprint live-scan technology, as
10 identified in the long-range plan of the Department of Justice for
11 fully automating the processing of fingerprints and other data by
12 the year 1999, otherwise known as the California Crime
13 Information Intelligence System (CAL-CII), to be used for
14 applicant fingerprints. It is the intent of the Legislature in enacting
15 this section to require the fingerprints of those individuals whose
16 contact with community care clients may pose a risk to the clients'
17 health and safety. An individual shall be required to obtain either
18 a criminal record clearance or a criminal record exemption from

1 the State Department of Social Services before his or her initial
2 presence in a community care facility.

3 (a) (1) Before issuing a license or special permit to any person
4 or persons to operate or manage a community care facility, the
5 State Department of Social Services shall secure from an
6 appropriate law enforcement agency a criminal record to determine
7 whether the applicant or any other person specified in subdivision
8 (b) has ever been convicted of a crime other than a minor traffic
9 violation or arrested for any crime specified in Section 290 of the
10 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
11 subdivision (b) of Section 273a of the Penal Code, or, prior to
12 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
13 or for any crime for which the department cannot grant an
14 exemption if the person was convicted and the person has not been
15 exonerated.

16 (2) The criminal history information shall include the full
17 criminal record, if any, of those persons, and subsequent arrest
18 information pursuant to Section 11105.2 of the Penal Code.

19 (3) Except during the 2003–04, 2004–05, 2005–06, 2006–07,
20 and 2007–08 fiscal years, neither the Department of Justice nor
21 the State Department of Social Services may charge a fee for the
22 fingerprinting of an applicant for a license or special permit to
23 operate a facility providing nonmedical board, room, and care for
24 six or less children or for obtaining a criminal record of the
25 applicant pursuant to this section.

26 (4) The following shall apply to the criminal record information:

27 (A) If the State Department of Social Services finds that the
28 applicant, or any other person specified in subdivision (b), has
29 been convicted of a crime other than a minor traffic violation, the
30 application shall be denied, unless the director grants an exemption
31 pursuant to subdivision (g).

32 (B) If the State Department of Social Services finds that the
33 applicant, or any other person specified in subdivision (b) is
34 awaiting trial for a crime other than a minor traffic violation, the
35 State Department of Social Services may cease processing the
36 application until the conclusion of the trial.

37 (C) If no criminal record information has been recorded, the
38 Department of Justice shall provide the applicant and the State
39 Department of Social Services with a statement of that fact.

1 (D) If the State Department of Social Services finds after
2 licensure that the licensee, or any other person specified in
3 paragraph (2) of subdivision (b), has been convicted of a crime
4 other than a minor traffic violation, the license may be revoked,
5 unless the director grants an exemption pursuant to subdivision
6 (g).

7 (E) An applicant and any other person specified in subdivision
8 (b) shall submit fingerprint images and related information to the
9 Department of Justice for the purpose of searching the criminal
10 records of the Federal Bureau of Investigation, in addition to the
11 criminal records search required by this subdivision. If an applicant
12 and all other persons described in subdivision (b) meet all of the
13 conditions for licensure, except receipt of the Federal Bureau of
14 Investigation's criminal offender record information search
15 response for the applicant or any of the persons described in
16 subdivision (b), the department may issue a license if the applicant
17 and each person described in subdivision (b) has signed and
18 submitted a statement that he or she has never been convicted of
19 a crime in the United States, other than a traffic infraction, as
20 defined in paragraph (1) of subdivision (a) of Section 42001 of
21 the Vehicle Code. If, after licensure, the department determines
22 that the licensee or any other person specified in subdivision (b)
23 has a criminal record, the license may be revoked pursuant to
24 Section 1550. The department may also suspend the license
25 pending an administrative hearing pursuant to Section 1550.5.

26 (F) The State Department of Social Services shall develop
27 procedures to provide the individual's state and federal criminal
28 history information with the written notification of his or her
29 exemption denial or revocation based on the criminal record.
30 Receipt of the criminal history information shall be optional on
31 the part of the individual, as set forth in the agency's procedures.
32 The procedure shall protect the confidentiality and privacy of the
33 individual's record, and the criminal history information shall not
34 be made available to the employer.

35 (G) Notwithstanding any other provision of law, the department
36 is authorized to provide an individual with a copy of his or her
37 state or federal level criminal offender record information search
38 response as provided to that department by the Department of
39 Justice if the department has denied a criminal background
40 clearance based on this information and the individual makes a

1 written request to the department for a copy specifying an address
2 to which it is to be sent. The state or federal level criminal offender
3 record information search response shall not be modified or altered
4 from its form or content as provided by the Department of Justice
5 and shall be provided to the address specified by the individual in
6 their written request. The department shall retain a copy of the
7 individual's written request and the response and date provided.

8 (b) (1) In addition to the applicant, this section shall be
9 applicable to criminal convictions of the following persons:

10 (A) Adults responsible for administration or direct supervision
11 of staff.

12 (B) Any person, other than a client, residing in the facility.

13 (C) Any person who provides client assistance in dressing,
14 grooming, bathing, or personal hygiene. Any nurse assistant or
15 home health aide meeting the requirements of Section 1338.5 or
16 1736.6, respectively, who is not employed, retained, or contracted
17 by the licensee, and who has been certified or recertified on or
18 after July 1, 1998, shall be deemed to meet the criminal record
19 clearance requirements of this section. A certified nurse assistant
20 and certified home health aide who will be providing client
21 assistance and who falls under this exemption shall provide one
22 copy of his or her current certification, prior to providing care, to
23 the community care facility. The facility shall maintain the copy
24 of the certification on file as long as care is being provided by the
25 certified nurse assistant or certified home health aide at the facility.
26 Nothing in this paragraph restricts the right of the department to
27 exclude a certified nurse assistant or certified home health aide
28 from a licensed community care facility pursuant to Section 1558.

29 (D) Any staff person, volunteer, or employee who has contact
30 with the clients.

31 (E) If the applicant is a firm, partnership, association, or
32 corporation, the chief executive officer or other person serving in
33 like capacity.

34 (F) Additional officers of the governing body of the applicant,
35 or other persons with a financial interest in the applicant, as
36 determined necessary by the department by regulation. The criteria
37 used in the development of these regulations shall be based on the
38 person's capability to exercise substantial influence over the
39 operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

1 (ii) Members do not transport clients off the facility premises.

2 (iii) The same organization does not conduct group activities
3 for clients more often than defined by the department's regulations.

4 (3) In addition to the exemptions in paragraph (2), the following
5 persons in foster family homes, certified family homes, and small
6 family homes are exempt from the requirements applicable under
7 paragraph (1):

8 (A) Adult friends and family of the licensed or certified foster
9 parent, who come into the home to visit for a length of time no
10 longer than defined by the department in regulations, provided
11 that the adult friends and family of the licensee are not left alone
12 with the foster children. However, the licensee, acting as a
13 reasonable and prudent parent, as defined in paragraph (2) of
14 subdivision (a) of Section 362.04 of the Welfare and Institutions
15 Code, may allow his or her adult friends and family to provide
16 short-term care to the foster child and act as an appropriate
17 occasional short-term babysitter for the child.

18 (B) Parents of a foster child's friends when the foster child is
19 visiting the friend's home and the friend, licensed or certified foster
20 parent, or both are also present. However, the licensee, acting as
21 a reasonable and prudent parent, may allow the parent of the foster
22 child's friends to act as an appropriate short-term babysitter for
23 the child without the friend being present.

24 (C) Individuals who are engaged by any licensed or certified
25 foster parent to provide short-term care to the child for periods not
26 to exceed 24 hours. Caregivers shall use a reasonable and prudent
27 parent standard in selecting appropriate individuals to act as
28 appropriate occasional short-term babysitters.

29 (4) In addition to the exemptions specified in paragraph (2), the
30 following persons in adult day care and adult day support centers
31 are exempt from the requirements applicable under paragraph (1):

32 (A) Unless contraindicated by the client's individualized
33 program plan (IPP) or needs and service plan, a spouse, significant
34 other, relative, or close friend of a client, or an attendant or a
35 facilitator for a client with a developmental disability if the
36 attendant or facilitator is not employed, retained, or contracted by
37 the licensee. This exemption applies only if the person is visiting
38 the client or providing direct care and supervision to the client.

39 (B) A volunteer if all of the following applies:

1 (i) The volunteer is supervised by the licensee or a facility
2 employee with a criminal record clearance or exemption.

3 (ii) The volunteer is never left alone with clients.

4 (iii) The volunteer does not provide any client assistance with
5 dressing, grooming, bathing, or personal hygiene other than
6 washing of hands.

7 (5) (A) In addition to the exemptions specified in paragraph
8 (2), the following persons in adult residential and social
9 rehabilitation facilities, unless contraindicated by the client's
10 individualized program plan (IPP) or needs and services plan, are
11 exempt from the requirements applicable under paragraph (1): a
12 spouse, significant other, relative, or close friend of a client, or an
13 attendant or a facilitator for a client with a developmental disability
14 if the attendant or facilitator is not employed, retained, or
15 contracted by the licensee. This exemption applies only if the
16 person is visiting the client or providing direct care and supervision
17 to that client.

18 (B) Nothing in this subdivision shall prevent a licensee from
19 requiring a criminal record clearance of any individual exempt
20 from the requirements of this section, provided that the individual
21 has client contact.

22 (6) Any person similar to those described in this subdivision,
23 as defined by the department in regulations.

24 (c) (1) Subsequent to initial licensure, any person specified in
25 subdivision (b) and not exempted from fingerprinting shall, as a
26 condition to employment, residence, or presence in a community
27 care facility, be fingerprinted and sign a declaration under penalty
28 of perjury regarding any prior criminal convictions. The licensee
29 shall submit fingerprint images and related information to the
30 Department of Justice and the Federal Bureau of Investigation,
31 through the Department of Justice, for a state and federal level
32 criminal offender record information search, or to comply with
33 paragraph (1) of subdivision (h), prior to the person's employment,
34 residence, or initial presence in the community care facility. These
35 fingerprint images and related information shall be sent by
36 electronic transmission in a manner approved by the State
37 Department of Social Services and the Department of Justice for
38 the purpose of obtaining a permanent set of fingerprints, and shall
39 be submitted to the Department of Justice by the licensee. ~~A~~
40 ~~licensee's failure to submit fingerprint images and related~~

1 ~~information to the Department of Justice for the purpose of~~
2 ~~obtaining a permanent set of fingerprints, and shall be submitted~~
3 ~~to the Department of Justice by the licensee.~~ A licensee's failure
4 to submit fingerprints to the Department of Justice or to comply
5 with paragraph (1) of subdivision (h), as required in this section,
6 shall result in the citation of a deficiency and the immediate
7 assessment of civil penalties in the amount of one hundred dollars
8 (\$100) per violation; per day for a maximum of five days, unless
9 the violation is a second or subsequent violation within a 12-month
10 period in which case the civil penalties shall be in the amount of
11 one hundred dollars (\$100) per violation for a maximum of 30
12 days, and shall be grounds for disciplining the licensee pursuant
13 to Section 1550. The department may assess civil penalties for
14 continued violations as permitted by Section 1548. The fingerprint
15 images and related information shall then be submitted to the
16 Department of Justice for processing. Upon request of the licensee,
17 who shall enclose a self-addressed stamped postcard for this
18 purpose, the Department of Justice shall verify receipt of the
19 fingerprints.

20 (2) Within 14 calendar days of the receipt of the fingerprint
21 images, the Department of Justice shall notify the State Department
22 of Social Services of the criminal record information, as provided
23 for in subdivision (a). If no criminal record information has been
24 recorded, the Department of Justice shall provide the licensee and
25 the State Department of Social Services with a statement of that
26 fact within 14 calendar days of receipt of the fingerprint images.
27 Documentation of the individual's clearance or exemption shall
28 be maintained by the licensee and be available for inspection. If
29 new fingerprint images are required for processing, the Department
30 of Justice shall, within 14 calendar days from the date of receipt
31 of the fingerprints, notify the licensee that the fingerprints were
32 illegible, the Department of Justice shall notify the State
33 Department of Social Services, as required by Section 1522.04,
34 and shall also notify the licensee by mail, within 14 days of
35 electronic transmission of the fingerprints to the Department of
36 Justice, if the person has no criminal history recorded. A violation
37 of the regulations adopted pursuant to Section 1522.04 shall result
38 in the citation of a deficiency and an immediate assessment of civil
39 penalties in the amount of one hundred dollars (\$100) per violation;
40 per day for a maximum of five days, unless the violation is a second

1 or subsequent violation within a 12-month period in which case
2 the civil penalties shall be in the amount of one hundred dollars
3 (\$100) per violation for a maximum of 30 days, and shall be
4 grounds for disciplining the licensee pursuant to Section 1550.
5 The department may assess civil penalties for continued violations
6 as permitted by Section 1548.

7 (3) Except for persons specified in paragraph (2) of subdivision
8 (b), the licensee shall endeavor to ascertain the previous
9 employment history of persons required to be fingerprinted under
10 this subdivision. If it is determined by the State Department of
11 Social Services, on the basis of the fingerprint images and related
12 information submitted to the Department of Justice, that the person
13 has been convicted of, or is awaiting trial for, a sex offense against
14 a minor, or has been convicted for an offense specified in Section
15 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,
16 the State Department of Social Services shall notify the licensee
17 to act immediately to terminate the person's employment, remove
18 the person from the community care facility, or bar the person
19 from entering the community care facility. The State Department
20 of Social Services may subsequently grant an exemption pursuant
21 to subdivision (g). If the conviction or arrest was for another crime,
22 except a minor traffic violation, the licensee shall, upon notification
23 by the State Department of Social Services, act immediately to
24 either (A) terminate the person's employment, remove the person
25 from the community care facility, or bar the person from entering
26 the community care facility; or (B) seek an exemption pursuant to
27 subdivision (g). The State Department of Social Services shall
28 determine if the person shall be allowed to remain in the facility
29 until a decision on the exemption is rendered. A licensee's failure
30 to comply with the department's prohibition of employment,
31 contact with clients, or presence in the facility as required by this
32 paragraph shall be grounds for disciplining the licensee pursuant
33 to Section 1550.

34 (4) The department may issue an exemption on its own motion
35 pursuant to subdivision (g) if the person's criminal history indicates
36 that the person is of good character based on the age, seriousness,
37 and frequency of the conviction or convictions. The department,
38 in consultation with interested parties, shall develop regulations
39 to establish the criteria to grant an exemption pursuant to this
40 paragraph.

1 (5) Concurrently with notifying the licensee pursuant to
2 paragraph (3), the department shall notify the affected individual
3 of his or her right to seek an exemption pursuant to subdivision
4 (g). The individual may seek an exemption only if the licensee
5 terminates the person's employment or removes the person from
6 the facility after receiving notice from the department pursuant to
7 paragraph (3).

8 (d) (1) Before issuing a license, special permit, or certificate
9 of approval to any person or persons to operate or manage a foster
10 family home or certified family home as described in Section 1506,
11 the State Department of Social Services or other approving
12 authority shall secure from an appropriate law enforcement agency
13 a criminal record to determine whether the applicant or any person
14 specified in subdivision (b) has ever been convicted of a crime
15 other than a minor traffic violation or arrested for any crime
16 specified in *subdivision (c) of* Section 290 of the Penal Code, for
17 violating Section 245 or 273.5, subdivision (b) of Section 273a or,
18 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
19 Code, or for any crime for which the department cannot grant an
20 exemption if the person was convicted and the person has not been
21 exonerated.

22 (2) The criminal history information shall include the full
23 criminal record, if any, of those persons.

24 (3) Neither the Department of Justice nor the State Department
25 of Social Services may charge a fee for the fingerprinting of an
26 applicant for a license, special permit, or certificate of approval
27 described in this subdivision. The record, if any, shall be taken
28 into consideration when evaluating a prospective applicant.

29 (4) The following shall apply to the criminal record information:

30 (A) If the applicant or other persons specified in subdivision
31 (b) have convictions that would make the applicant's home unfit
32 as a foster family home or a certified family home, the license,
33 special permit, or certificate of approval shall be denied.

34 (B) If the State Department of Social Services finds that the
35 applicant, or any person specified in subdivision (b) is awaiting
36 trial for a crime other than a minor traffic violation, the State
37 Department of Social Services or other approving authority may
38 cease processing the application until the conclusion of the trial.

1 (C) For the purposes of this subdivision, a criminal record
2 clearance provided under Section 8712 of the Family Code may
3 be used by the department or other approving agency.

4 (D) An applicant for a foster family home license or for
5 certification as a family home, and any other person specified in
6 subdivision (b), shall submit a set of fingerprint images and related
7 information to the Department of Justice and the Federal Bureau
8 of Investigation, through the Department of Justice, for a state and
9 federal level criminal offender record information search, in
10 addition to the criminal records search required by subdivision (a).
11 If an applicant meets all other conditions for licensure, except
12 receipt of the Federal Bureau of Investigation's criminal history
13 information for the applicant and all persons described in
14 subdivision (b), the department may issue a license, or the foster
15 family agency may issue a certificate of approval, if the applicant,
16 and each person described in subdivision (b), has signed and
17 submitted a statement that he or she has never been convicted of
18 a crime in the United States, other than a traffic infraction, as
19 defined in paragraph (1) of subdivision (a) of Section 42001 of
20 the Vehicle Code. If, after licensure or certification, the department
21 determines that the licensee, certified foster parent, or any person
22 specified in subdivision (b) has a criminal record, the license may
23 be revoked pursuant to Section 1550 and the certificate of approval
24 revoked pursuant to subdivision (b) of Section 1534. The
25 department may also suspend the license pending an administrative
26 hearing pursuant to Section 1550.5.

27 (5) Any person specified in this subdivision shall, as a part of
28 the application, be fingerprinted and sign a declaration under
29 penalty of perjury regarding any prior criminal convictions or
30 arrests for any crime against a child, spousal or cohabitant abuse
31 or, any crime for which the department cannot grant an exemption
32 if the person was convicted and shall submit these fingerprints to
33 the licensing agency or other approving authority.

34 (6) (A) The foster family agency shall obtain fingerprint images
35 and related information from certified home applicants and from
36 persons specified in subdivision (b) and shall submit them directly
37 to the Department of Justice by electronic transmission in a manner
38 approved by the State Department of Social Services and the
39 Department of Justice. A foster family home licensee or foster
40 family agency shall submit these fingerprint images and related

1 information to the Department of Justice and the Federal Bureau
2 of Investigation, through the Department of Justice, for a state and
3 federal level criminal offender record information search, or to
4 comply with paragraph (1) of subdivision (b) prior to the person's
5 employment, residence, or initial presence in the foster family
6 home or certified family home. A foster family agency's failure
7 to submit fingerprint images and related information to the
8 Department of Justice, or comply with paragraph (1) of subdivision
9 (h), as required in this section, shall result in a citation of a
10 deficiency, and the immediate civil penalties of one hundred dollars
11 (\$100) per violation; per day for a maximum of five days, unless
12 the violation is a second or subsequent violation within a 12-month
13 period in which case the civil penalties shall be in the amount of
14 one hundred dollars (\$100) per violation for a maximum of 30
15 days, and shall be grounds for disciplining the licensee pursuant
16 to Section 1550. A violation of the regulation adopted pursuant to
17 Section 1522.04 shall result in the citation of a deficiency and an
18 immediate assessment of civil penalties in the amount of one
19 hundred dollars (\$100) per violation; per day for a maximum of
20 five days, unless the violation is a second or subsequent violation
21 within a 12-month period in which case the civil penalties shall
22 be in the amount of one hundred dollars (\$100) per violation for
23 a maximum of 30 days, and shall be grounds for disciplining the
24 foster family agency pursuant to Section 1550. A licensee's failure
25 to submit fingerprint images and related information to the
26 Department of Justice, or comply with paragraph (1) of subdivision
27 (h), as required in this section, may result in the citation of a
28 deficiency and immediate civil penalties of one hundred dollars
29 (\$100) per violation. A licensee's violation of regulations adopted
30 pursuant to Section 1522.04 may result in the citation of a
31 deficiency and an immediate assessment of civil penalties in the
32 amount of one hundred dollars (\$100) per violation. The State
33 Department of Social Services may assess penalties for continued
34 violations, as permitted by Section 1548. The fingerprint images
35 shall then be submitted to the Department of Justice for processing.
36 (B) Upon request of the licensee, who shall enclose a
37 self-addressed envelope for this purpose, the Department of Justice
38 shall verify receipt of the fingerprints. Within five working days
39 of the receipt of the criminal record or information regarding
40 criminal convictions from the Department of Justice, the

1 department shall notify the applicant of any criminal arrests or
2 convictions. If no arrests or convictions are recorded, the
3 Department of Justice shall provide the foster family home licensee
4 or the foster family agency with a statement of that fact concurrent
5 with providing the information to the State Department of Social
6 Services.

7 (7) If the State Department of Social Services finds that the
8 applicant, or any other person specified in subdivision (b), has
9 been convicted of a crime other than a minor traffic violation, the
10 application shall be denied, unless the director grants an exemption
11 pursuant to subdivision (g).

12 (8) If the State Department of Social Services finds after
13 licensure or the granting of the certificate of approval that the
14 licensee, certified foster parent, or any other person specified in
15 paragraph (2) of subdivision (b), has been convicted of a crime
16 other than a minor traffic violation, the license or certificate of
17 approval may be revoked by the department or the foster family
18 agency, whichever is applicable, unless the director grants an
19 exemption pursuant to subdivision (g). A licensee's failure to
20 comply with the department's prohibition of employment, contact
21 with clients, or presence in the facility as required by paragraph
22 (3) of subdivision (c) shall be grounds for disciplining the licensee
23 pursuant to Section 1550.

24 (e) The State Department of Social Services may not use a
25 record of arrest to deny, revoke, or terminate any application,
26 license, employment, or residence unless the department
27 investigates the incident and secures evidence, whether or not
28 related to the incident of arrest, that is admissible in an
29 administrative hearing to establish conduct by the person that may
30 pose a risk to the health and safety of any person who is or may
31 become a client. The State Department of Social Services is
32 authorized to obtain any arrest or conviction records or reports
33 from any law enforcement agency as necessary to the performance
34 of its duties to inspect, license, and investigate community care
35 facilities and individuals associated with a community care facility.

36 (f) (1) For purposes of this section or any other provision of
37 this chapter, a conviction means a plea or verdict of guilty or a
38 conviction following a plea of nolo contendere. Any action that
39 the State Department of Social Services is permitted to take
40 following the establishment of a conviction may be taken when

the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision-(a) (c) of Section 290, or Section 368 of the Penal

1 Code, or was a conviction of another crime against an individual
2 specified in subdivision (c) of Section 667.5 of the Penal Code.

3 (ii) Notwithstanding clause (i), the director may grant an
4 exemption regarding the conviction for an offense described in
5 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
6 of the Penal Code, if the employee or prospective employee has
7 been rehabilitated as provided in Section 4852.03 of the Penal
8 Code, has maintained the conduct required in Section 4852.05 of
9 the Penal Code for at least 10 years, and has the recommendation
10 of the district attorney representing the employee's county of
11 residence, or if the employee or prospective employee has received
12 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
13 with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

14 (B) A felony offense specified in Section 729 of the Business
15 and Professions Code or Section 206 or 215, subdivision (a) of
16 Section 347, subdivision (b) of Section 417, or subdivision (a) of
17 Section 451 of the Penal Code.

18 (2) The department may not prohibit a person from being
19 employed or having contact with clients in a facility on the basis
20 of a denied criminal record exemption request or arrest information
21 unless the department complies with the requirements of Section
22 1558.

23 (h) (1) For purposes of compliance with this section, the
24 department may permit an individual to transfer a current criminal
25 record clearance, as defined in subdivision (a), from one facility
26 to another, as long as the criminal record clearance has been
27 processed through a state licensing district office, and is being
28 transferred to another facility licensed by a state licensing district
29 office. The request shall be in writing to the State Department of
30 Social Services, and shall include a copy of the person's driver's
31 license or valid identification card issued by the Department of
32 Motor Vehicles, or a valid photo identification issued by another
33 state or the United States government if the person is not a
34 California resident. Upon request of the licensee, who shall enclose
35 a self-addressed envelope for this purpose, the State Department
36 of Social Services shall verify whether the individual has a
37 clearance that can be transferred.

38 (2) The State Department of Social Services shall hold criminal
39 record clearances in its active files for a minimum of two years

1 after an employee is no longer employed at a licensed facility in
2 order for the criminal record clearance to be transferred.

3 (3) The following shall apply to a criminal record clearance or
4 exemption from the department or a county office with
5 department-delegated licensing authority:

6 (A) A county office with department-delegated licensing
7 authority may accept a clearance or exemption from the
8 department.

9 (B) The department may accept a clearance or exemption from
10 any county office with department-delegated licensing authority.

11 (C) A county office with department-delegated licensing
12 authority may accept a clearance or exemption from any other
13 county office with department-delegated licensing authority.

14 (4) With respect to notifications issued by the Department of
15 Justice pursuant to Section 11105.2 of the Penal Code concerning
16 an individual whose criminal record clearance was originally
17 processed by the department or a county office with
18 department-delegated licensing authority, all of the following shall
19 apply:

20 (A) The Department of Justice shall process a request from the
21 department or a county office with department-delegated licensing
22 authority to receive the notice only if all of the following conditions
23 are met:

24 (i) The request shall be submitted to the Department of Justice
25 by the agency to be substituted to receive the notification.

26 (ii) The request shall be for the same applicant type as the type
27 for which the original clearance was obtained.

28 (iii) The request shall contain all prescribed data elements and
29 format protocols pursuant to a written agreement between the
30 department and the Department of Justice.

31 (B) (i) On or before January 7, 2005, the department shall notify
32 the Department of Justice of all county offices that have
33 department-delegated licensing authority.

34 (ii) The department shall notify the Department of Justice within
35 15 calendar days of the date on which a new county office receives
36 department-delegated licensing authority or a county's delegated
37 licensing authority is rescinded.

38 (C) The Department of Justice shall charge the department or
39 a county office with department-delegated licensing authority a
40 fee for each time a request to substitute the recipient agency is

1 received for purposes of this paragraph. This fee shall not exceed
2 the cost of providing the service.

3 (i) The full criminal record obtained for purposes of this section
4 may be used by the department or by a licensed adoption agency
5 as a clearance required for adoption purposes.

6 (j) If a licensee or facility is required by law to deny employment
7 or to terminate employment of any employee based on written
8 notification from the state department that the employee has a prior
9 criminal conviction or is determined unsuitable for employment
10 under Section 1558, the licensee or facility shall not incur civil
11 liability or unemployment insurance liability as a result of that
12 denial or termination.

13 (k) The State Department of Social Services may charge a fee
14 for the costs of processing electronic fingerprint images and related
15 information.

16 (l) Amendments to this section made in the 1999 portion of the
17 1999–2000 Regular Session shall be implemented commencing
18 60 days after the effective date of the act amending this section in
19 the 1999 portion of the 1999–2000 Regular Session, except that
20 those provisions for the submission of fingerprints for searching
21 the records of the Federal Bureau of Investigation shall be
22 implemented 90 days after the effective date of that act.

23 *SEC. 1.5. Section 1522 of the Health and Safety Code is*
24 *amended to read:*

25 1522. The Legislature recognizes the need to generate timely
26 and accurate positive fingerprint identification of applicants as a
27 condition of issuing licenses, permits, or certificates of approval
28 for persons to operate or provide direct care services in a
29 community care facility, foster family home, or a certified family
30 home of a licensed foster family agency. Therefore, the Legislature
31 supports the use of the fingerprint live-scan technology, as
32 identified in the long-range plan of the Department of Justice for
33 fully automating the processing of fingerprints and other data by
34 the year 1999, otherwise known as the California Crime
35 Information Intelligence System (CAL-CII), to be used for
36 applicant fingerprints. It is the intent of the Legislature in enacting
37 this section to require the fingerprints of those individuals whose
38 contact with community care clients may pose a risk to the clients'
39 health and safety. An individual shall be required to obtain either
40 a criminal record clearance or a criminal record exemption from

1 the State Department of Social Services before his or her initial
2 presence in a community care facility.

3 (a) (1) Before issuing a license or special permit to any person
4 or persons to operate or manage a community care facility, the
5 State Department of Social Services shall secure from an
6 appropriate law enforcement agency a criminal record to determine
7 whether the applicant or any other person specified in subdivision
8 (b) has ever been convicted of a crime other than a minor traffic
9 violation or arrested for any crime specified in Section 290 of the
10 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
11 subdivision (b) of Section 273a of the Penal Code, or, prior to
12 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
13 or for any crime for which the department cannot grant an
14 exemption if the person was convicted and the person has not been
15 exonerated.

16 (2) The criminal history information shall include the full
17 criminal record, if any, of those persons, and subsequent arrest
18 information pursuant to Section 11105.2 of the Penal Code.

19 (3) Except during the 2003–04, 2004–05, 2005–06, 2006–07,
20 and 2007–08 fiscal years, neither the Department of Justice nor
21 the State Department of Social Services may charge a fee for the
22 fingerprinting of an applicant for a license or special permit to
23 operate a facility providing nonmedical board, room, and care for
24 six or less children or for obtaining a criminal record of the
25 applicant pursuant to this section.

26 (4) The following shall apply to the criminal record information:

27 (A) If the State Department of Social Services finds that the
28 applicant, or any other person specified in subdivision (b), has
29 been convicted of a crime other than a minor traffic violation, the
30 application shall be denied, unless the director grants an exemption
31 pursuant to subdivision (g).

32 (B) If the State Department of Social Services finds that the
33 applicant, or any other person specified in subdivision (b) is
34 awaiting trial for a crime other than a minor traffic violation, the
35 State Department of Social Services may cease processing the
36 application until the conclusion of the trial.

37 (C) If no criminal record information has been recorded, the
38 Department of Justice shall provide the applicant and the State
39 Department of Social Services with a statement of that fact.

1 (D) If the State Department of Social Services finds after
2 licensure that the licensee, or any other person specified in
3 paragraph (2) of subdivision (b), has been convicted of a crime
4 other than a minor traffic violation, the license may be revoked,
5 unless the director grants an exemption pursuant to subdivision
6 (g).

7 (E) An applicant and any other person specified in subdivision
8 (b) shall submit fingerprint images and related information to the
9 Department of Justice for the purpose of searching the criminal
10 records of the Federal Bureau of Investigation, in addition to the
11 criminal records search required by this subdivision. If an applicant
12 and all other persons described in subdivision (b) meet all of the
13 conditions for licensure, except receipt of the Federal Bureau of
14 Investigation's criminal offender record information search
15 response for the applicant or any of the persons described in
16 subdivision (b), the department may issue a license if the applicant
17 and each person described in subdivision (b) has signed and
18 submitted a statement that he or she has never been convicted of
19 a crime in the United States, other than a traffic infraction, as
20 defined in paragraph (1) of subdivision (a) of Section 42001 of
21 the Vehicle Code. If, after licensure, the department determines
22 that the licensee or any other person specified in subdivision (b)
23 has a criminal record, the license may be revoked pursuant to
24 Section 1550. The department may also suspend the license
25 pending an administrative hearing pursuant to Section 1550.5.

26 (F) The State Department of Social Services shall develop
27 procedures to provide the individual's state and federal criminal
28 history information with the written notification of his or her
29 exemption denial or revocation based on the criminal record.
30 Receipt of the criminal history information shall be optional on
31 the part of the individual, as set forth in the agency's procedures.
32 The procedure shall protect the confidentiality and privacy of the
33 individual's record, and the criminal history information shall not
34 be made available to the employer.

35 (G) Notwithstanding any other provision of law, the department
36 is authorized to provide an individual with a copy of his or her
37 state or federal level criminal offender record information search
38 response as provided to that department by the Department of
39 Justice if the department has denied a criminal background
40 clearance based on this information and the individual makes a

1 written request to the department for a copy specifying an address
2 to which it is to be sent. The state or federal level criminal offender
3 record information search response shall not be modified or altered
4 from its form or content as provided by the Department of Justice
5 and shall be provided to the address specified by the individual in
6 their written request. The department shall retain a copy of the
7 individual's written request and the response and date provided.

8 (b) (1) In addition to the applicant, this section shall be
9 applicable to criminal convictions of the following persons:

10 (A) Adults responsible for administration or direct supervision
11 of staff.

12 (B) Any person, other than a client, residing in the facility.

13 (C) Any person who provides client assistance in dressing,
14 grooming, bathing, or personal hygiene. Any nurse assistant or
15 home health aide meeting the requirements of Section 1338.5 or
16 1736.6, respectively, who is not employed, retained, or contracted
17 by the licensee, and who has been certified or recertified on or
18 after July 1, 1998, shall be deemed to meet the criminal record
19 clearance requirements of this section. A certified nurse assistant
20 and certified home health aide who will be providing client
21 assistance and who falls under this exemption shall provide one
22 copy of his or her current certification, prior to providing care, to
23 the community care facility. The facility shall maintain the copy
24 of the certification on file as long as care is being provided by the
25 certified nurse assistant or certified home health aide at the facility.
26 Nothing in this paragraph restricts the right of the department to
27 exclude a certified nurse assistant or certified home health aide
28 from a licensed community care facility pursuant to Section 1558.

29 (D) Any staff person, volunteer, or employee who has contact
30 with the clients.

31 (E) If the applicant is a firm, partnership, association, or
32 corporation, the chief executive officer or other person serving in
33 like capacity.

34 (F) Additional officers of the governing body of the applicant,
35 or other persons with a financial interest in the applicant, as
36 determined necessary by the department by regulation. The criteria
37 used in the development of these regulations shall be based on the
38 person's capability to exercise substantial influence over the
39 operation of the facility.

(2) The following persons are exempt from the requirements applicable under paragraph (1):

(A) A medical professional as defined in department regulations who holds a valid license or certification from the person's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee if all of the following apply:

(i) The criminal record of the person has been cleared as a condition of licensure or certification by the person's governing California medical care regulatory entity.

(ii) The person is providing time-limited specialized clinical care or services.

(iii) The person is providing care or services within the person's scope of practice.

(iv) The person is not a community care facility licensee or an employee of the facility.

(B) A third-party repair person or similar retained contractor if all of the following apply:

(i) The person is hired for a defined, time-limited job.

(ii) The person is not left alone with clients.

(iii) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

(C) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client or resident of the facility and are in the facility at the request of that client or resident's legal decisionmaker. The exemption does not apply to a person who is a community care facility licensee or an employee of the facility.

(D) Clergy and other spiritual caregivers who are performing services in common areas of the community care facility or who are advising an individual client at the request of, or with the permission of, the client or legal decisionmaker, are exempt from fingerprint and criminal background check requirements imposed by community care licensing. This exemption does not apply to a person who is a community care licensee or employee of the facility.

(E) Members of fraternal, service, or similar organizations who conduct group activities for clients if all of the following apply:

(i) Members are not left alone with clients.

1 (ii) Members do not transport clients off the facility premises.

2 (iii) The same organization does not conduct group activities
3 for clients more often than defined by the department's regulations.

4 (3) In addition to the exemptions in paragraph (2), the following
5 persons in foster family homes, certified family homes, and small
6 family homes are exempt from the requirements applicable under
7 paragraph (1):

8 (A) Adult friends and family of the licensed or certified foster
9 parent, who come into the home to visit for a length of time no
10 longer than defined by the department in regulations, provided
11 that the adult friends and family of the licensee are not left alone
12 with the foster children. However, the licensee, acting as a
13 reasonable and prudent parent, as defined in paragraph (2) of
14 subdivision (a) of Section 362.04 of the Welfare and Institutions
15 Code, may allow his or her adult friends and family to provide
16 short-term care to the foster child and act as an appropriate
17 occasional short-term babysitter for the child.

18 (B) Parents of a foster child's friends when the foster child is
19 visiting the friend's home and the friend, licensed or certified foster
20 parent, or both are also present. However, the licensee, acting as
21 a reasonable and prudent parent, may allow the parent of the foster
22 child's friends to act as an appropriate short-term babysitter for
23 the child without the friend being present.

24 (C) Individuals who are engaged by any licensed or certified
25 foster parent to provide short-term care to the child for periods not
26 to exceed 24 hours. Caregivers shall use a reasonable and prudent
27 parent standard in selecting appropriate individuals to act as
28 appropriate occasional short-term babysitters.

29 (4) In addition to the exemptions specified in paragraph (2), the
30 following persons in adult day care and adult day support centers
31 are exempt from the requirements applicable under paragraph (1):

32 (A) Unless contraindicated by the client's individualized
33 program plan (IPP) or needs and service plan, a spouse, significant
34 other, relative, or close friend of a client, or an attendant or a
35 facilitator for a client with a developmental disability if the
36 attendant or facilitator is not employed, retained, or contracted by
37 the licensee. This exemption applies only if the person is visiting
38 the client or providing direct care and supervision to the client.

39 (B) A volunteer if all of the following applies:

1 (i) The volunteer is supervised by the licensee or a facility
2 employee with a criminal record clearance or exemption.

3 (ii) The volunteer is never left alone with clients.

4 (iii) The volunteer does not provide any client assistance with
5 dressing, grooming, bathing, or personal hygiene other than
6 washing of hands.

7 (5) (A) In addition to the exemptions specified in paragraph
8 (2), the following persons in adult residential and social
9 rehabilitation facilities, unless contraindicated by the client's
10 individualized program plan (IPP) or needs and services plan, are
11 exempt from the requirements applicable under paragraph (1): a
12 spouse, significant other, relative, or close friend of a client, or an
13 attendant or a facilitator for a client with a developmental disability
14 if the attendant or facilitator is not employed, retained, or
15 contracted by the licensee. This exemption applies only if the
16 person is visiting the client or providing direct care and supervision
17 to that client.

18 (B) Nothing in this subdivision shall prevent a licensee from
19 requiring a criminal record clearance of any individual exempt
20 from the requirements of this section, provided that the individual
21 has client contact.

22 (6) Any person similar to those described in this subdivision,
23 as defined by the department in regulations.

24 (c) (1) Subsequent to initial licensure, any person specified in
25 subdivision (b) and not exempted from fingerprinting shall, as a
26 condition to employment, residence, or presence in a community
27 care facility, be fingerprinted and sign a declaration under penalty
28 of perjury regarding any prior criminal convictions. The licensee
29 shall submit fingerprint images and related information to the
30 Department of Justice and the Federal Bureau of Investigation,
31 through the Department of Justice, for a state and federal level
32 criminal offender record information search, or to comply with
33 paragraph (1) of subdivision (h), prior to the person's employment,
34 residence, or initial presence in the community care facility. These
35 fingerprint images and related information shall be sent by
36 electronic transmission in a manner approved by the State
37 Department of Social Services and the Department of Justice for
38 the purpose of obtaining a permanent set of fingerprints, and shall
39 be submitted to the Department of Justice by the licensee. ~~A~~
40 ~~licensee's failure to submit fingerprint images and related~~

1 ~~information to the Department of Justice for the purpose of~~
2 ~~obtaining a permanent set of fingerprints, and shall be submitted~~
3 ~~to the Department of Justice by the licensee.~~ A licensee's failure
4 to submit fingerprints to the Department of Justice or to comply
5 with paragraph (1) of subdivision (h), as required in this section,
6 shall result in the citation of a deficiency and the immediate
7 assessment of civil penalties in the amount of one hundred dollars
8 (\$100) per violation; per day for a maximum of five days, unless
9 the violation is a second or subsequent violation within a 12-month
10 period in which case the civil penalties shall be in the amount of
11 one hundred dollars (\$100) per violation for a maximum of 30
12 days, and shall be grounds for disciplining the licensee pursuant
13 to Section 1550. The department may assess civil penalties for
14 continued violations as permitted by Section 1548. The fingerprint
15 images and related information shall then be submitted to the
16 Department of Justice for processing. Upon request of the licensee,
17 who shall enclose a self-addressed stamped postcard for this
18 purpose, the Department of Justice shall verify receipt of the
19 fingerprints.

20 (2) Within 14 calendar days of the receipt of the fingerprint
21 images, the Department of Justice shall notify the State Department
22 of Social Services of the criminal record information, as provided
23 for in subdivision (a). If no criminal record information has been
24 recorded, the Department of Justice shall provide the licensee and
25 the State Department of Social Services with a statement of that
26 fact within 14 calendar days of receipt of the fingerprint images.
27 Documentation of the individual's clearance or exemption shall
28 be maintained by the licensee and be available for inspection. If
29 new fingerprint images are required for processing, the Department
30 of Justice shall, within 14 calendar days from the date of receipt
31 of the fingerprints, notify the licensee that the fingerprints were
32 illegible, the Department of Justice shall notify the State
33 Department of Social Services, as required by Section 1522.04,
34 and shall also notify the licensee by mail, within 14 days of
35 electronic transmission of the fingerprints to the Department of
36 Justice, if the person has no criminal history recorded. A violation
37 of the regulations adopted pursuant to Section 1522.04 shall result
38 in the citation of a deficiency and an immediate assessment of civil
39 penalties in the amount of one hundred dollars (\$100) per violation;
40 per day for a maximum of five days, unless the violation is a second

1 or subsequent violation within a 12-month period in which case
2 the civil penalties shall be in the amount of one hundred dollars
3 (\$100) per violation for a maximum of 30 days, and shall be
4 grounds for disciplining the licensee pursuant to Section 1550.
5 The department may assess civil penalties for continued violations
6 as permitted by Section 1548.

7 (3) Except for persons specified in paragraph (2) of subdivision
8 (b), the licensee shall endeavor to ascertain the previous
9 employment history of persons required to be fingerprinted under
10 this subdivision. If it is determined by the State Department of
11 Social Services, on the basis of the fingerprint images and related
12 information submitted to the Department of Justice, that the person
13 has been convicted of, or is awaiting trial for, a sex offense against
14 a minor, or has been convicted for an offense specified in Section
15 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,
16 the State Department of Social Services shall notify the licensee
17 to act immediately to terminate the person's employment, remove
18 the person from the community care facility, or bar the person
19 from entering the community care facility. The State Department
20 of Social Services may subsequently grant an exemption pursuant
21 to subdivision (g). If the conviction or arrest was for another crime,
22 except a minor traffic violation, the licensee shall, upon notification
23 by the State Department of Social Services, act immediately to
24 either (A) terminate the person's employment, remove the person
25 from the community care facility, or bar the person from entering
26 the community care facility; or (B) seek an exemption pursuant to
27 subdivision (g). The State Department of Social Services shall
28 determine if the person shall be allowed to remain in the facility
29 until a decision on the exemption is rendered. A licensee's failure
30 to comply with the department's prohibition of employment,
31 contact with clients, or presence in the facility as required by this
32 paragraph shall be grounds for disciplining the licensee pursuant
33 to Section 1550.

34 (4) The department may issue an exemption on its own motion
35 pursuant to subdivision (g) if the person's criminal history indicates
36 that the person is of good character based on the age, seriousness,
37 and frequency of the conviction or convictions. The department,
38 in consultation with interested parties, shall develop regulations
39 to establish the criteria to grant an exemption pursuant to this
40 paragraph.

1 (5) Concurrently with notifying the licensee pursuant to
2 paragraph (3), the department shall notify the affected individual
3 of his or her right to seek an exemption pursuant to subdivision
4 (g). The individual may seek an exemption only if the licensee
5 terminates the person's employment or removes the person from
6 the facility after receiving notice from the department pursuant to
7 paragraph (3).

8 (d) (1) Before issuing a license, special permit, or certificate
9 of approval to any person or persons to operate or manage a foster
10 family home or certified family home as described in Section 1506,
11 the State Department of Social Services or other approving
12 authority shall secure from an appropriate law enforcement agency
13 a criminal record to determine whether the applicant or any person
14 specified in subdivision (b) has ever been convicted of a crime
15 other than a minor traffic violation or arrested for any crime
16 specified in *subdivision (c) of* Section 290 of the Penal Code, for
17 violating Section 245 or 273.5, subdivision (b) of Section 273a or,
18 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
19 Code, or for any crime for which the department cannot grant an
20 exemption if the person was convicted and the person has not been
21 exonerated.

22 (2) The criminal history information shall include the full
23 criminal record, if any, of those persons.

24 (3) Neither the Department of Justice nor the State Department
25 of Social Services may charge a fee for the fingerprinting of an
26 applicant for a license, special permit, or certificate of approval
27 described in this subdivision. The record, if any, shall be taken
28 into consideration when evaluating a prospective applicant.

29 (4) The following shall apply to the criminal record information:

30 (A) If the applicant or other persons specified in subdivision
31 (b) have convictions that would make the applicant's home unfit
32 as a foster family home or a certified family home, the license,
33 special permit, or certificate of approval shall be denied.

34 (B) If the State Department of Social Services finds that the
35 applicant, or any person specified in subdivision (b) is awaiting
36 trial for a crime other than a minor traffic violation, the State
37 Department of Social Services or other approving authority may
38 cease processing the application until the conclusion of the trial.

1 (C) For the purposes of this subdivision, a criminal record
2 clearance provided under Section 8712 of the Family Code may
3 be used by the department or other approving agency.

4 (D) An applicant for a foster family home license or for
5 certification as a family home, and any other person specified in
6 subdivision (b), shall submit a set of fingerprint images and related
7 information to the Department of Justice and the Federal Bureau
8 of Investigation, through the Department of Justice, for a state and
9 federal level criminal offender record information search, in
10 addition to the criminal records search required by subdivision (a).
11 If an applicant meets all other conditions for licensure, except
12 receipt of the Federal Bureau of Investigation's criminal history
13 information for the applicant and all persons described in
14 subdivision (b), the department may issue a license, or the foster
15 family agency may issue a certificate of approval, if the applicant,
16 and each person described in subdivision (b), has signed and
17 submitted a statement that he or she has never been convicted of
18 a crime in the United States, other than a traffic infraction, as
19 defined in paragraph (1) of subdivision (a) of Section 42001 of
20 the Vehicle Code. If, after licensure or certification, the department
21 determines that the licensee, certified foster parent, or any person
22 specified in subdivision (b) has a criminal record, the license may
23 be revoked pursuant to Section 1550 and the certificate of approval
24 revoked pursuant to subdivision (b) of Section 1534. The
25 department may also suspend the license pending an administrative
26 hearing pursuant to Section 1550.5.

27 (5) Any person specified in this subdivision shall, as a part of
28 the application, be fingerprinted and sign a declaration under
29 penalty of perjury regarding any prior criminal convictions or
30 arrests for any crime against a child, spousal or cohabitant abuse
31 or, any crime for which the department cannot grant an exemption
32 if the person was convicted and shall submit these fingerprints to
33 the licensing agency or other approving authority.

34 (6) (A) The foster family agency shall obtain fingerprint images
35 and related information from certified home applicants and from
36 persons specified in subdivision (b) and shall submit them directly
37 to the Department of Justice by electronic transmission in a manner
38 approved by the State Department of Social Services and the
39 Department of Justice. A foster family home licensee or foster
40 family agency shall submit these fingerprint images and related

1 information to the Department of Justice and the Federal Bureau
2 of Investigation, through the Department of Justice, for a state and
3 federal level criminal offender record information search, or to
4 comply with paragraph (1) of subdivision (b) prior to the person's
5 employment, residence, or initial presence in the foster family
6 home or certified family home. A foster family agency's failure
7 to submit fingerprint images and related information to the
8 Department of Justice, or comply with paragraph (1) of subdivision
9 (h), as required in this section, shall result in a citation of a
10 deficiency, and the immediate civil penalties of one hundred dollars
11 (\$100) per violation; per day for a maximum of five days, unless
12 the violation is a second or subsequent violation within a 12-month
13 period in which case the civil penalties shall be in the amount of
14 one hundred dollars (\$100) per violation for a maximum of 30
15 days, and shall be grounds for disciplining the licensee pursuant
16 to Section 1550. A violation of the regulation adopted pursuant to
17 Section 1522.04 shall result in the citation of a deficiency and an
18 immediate assessment of civil penalties in the amount of one
19 hundred dollars (\$100) per violation; per day for a maximum of
20 five days, unless the violation is a second or subsequent violation
21 within a 12-month period in which case the civil penalties shall
22 be in the amount of one hundred dollars (\$100) per violation for
23 a maximum of 30 days, and shall be grounds for disciplining the
24 foster family agency pursuant to Section 1550. A licensee's failure
25 to submit fingerprint images and related information to the
26 Department of Justice, or comply with paragraph (1) of subdivision
27 (h), as required in this section, may result in the citation of a
28 deficiency and immediate civil penalties of one hundred dollars
29 (\$100) per violation. A licensee's violation of regulations adopted
30 pursuant to Section 1522.04 may result in the citation of a
31 deficiency and an immediate assessment of civil penalties in the
32 amount of one hundred dollars (\$100) per violation. The State
33 Department of Social Services may assess penalties for continued
34 violations, as permitted by Section 1548. The fingerprint images
35 shall then be submitted to the Department of Justice for processing.
36 (B) Upon request of the licensee, who shall enclose a
37 self-addressed envelope for this purpose, the Department of Justice
38 shall verify receipt of the fingerprints. Within five working days
39 of the receipt of the criminal record or information regarding
40 criminal convictions from the Department of Justice, the

1 department shall notify the applicant of any criminal arrests or
2 convictions. If no arrests or convictions are recorded, the
3 Department of Justice shall provide the foster family home licensee
4 or the foster family agency with a statement of that fact concurrent
5 with providing the information to the State Department of Social
6 Services.

7 (7) If the State Department of Social Services finds that the
8 applicant, or any other person specified in subdivision (b), has
9 been convicted of a crime other than a minor traffic violation, the
10 application shall be denied, unless the director grants an exemption
11 pursuant to subdivision (g).

12 (8) If the State Department of Social Services finds after
13 licensure or the granting of the certificate of approval that the
14 licensee, certified foster parent, or any other person specified in
15 paragraph (2) of subdivision (b), has been convicted of a crime
16 other than a minor traffic violation, the license or certificate of
17 approval may be revoked by the department or the foster family
18 agency, whichever is applicable, unless the director grants an
19 exemption pursuant to subdivision (g). A licensee's failure to
20 comply with the department's prohibition of employment, contact
21 with clients, or presence in the facility as required by paragraph
22 (3) of subdivision (c) shall be grounds for disciplining the licensee
23 pursuant to Section 1550.

24 (e) The State Department of Social Services may not use a
25 record of arrest to deny, revoke, or terminate any application,
26 license, employment, or residence unless the department
27 investigates the incident and secures evidence, whether or not
28 related to the incident of arrest, that is admissible in an
29 administrative hearing to establish conduct by the person that may
30 pose a risk to the health and safety of any person who is or may
31 become a client. The State Department of Social Services is
32 authorized to obtain any arrest or conviction records or reports
33 from any law enforcement agency as necessary to the performance
34 of its duties to inspect, license, and investigate community care
35 facilities and individuals associated with a community care facility.

36 (f) (1) For purposes of this section or any other provision of
37 this chapter, a conviction means a plea or verdict of guilty or a
38 conviction following a plea of nolo contendere. Any action that
39 the State Department of Social Services is permitted to take
40 following the establishment of a conviction may be taken when

the time for appeal has elapsed, when the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption may not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A) (i) An offense specified in Section 220, 243.4, or 264.1, subdivision-(a) (c) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision-(a) (c) of Section 290, or Section 368 of the Penal

1 Code, or was a conviction of another crime against an individual
2 specified in subdivision (c) of Section 667.5 of the Penal Code.

3 (ii) Notwithstanding clause (i), the director may grant an
4 exemption regarding the conviction for an offense described in
5 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
6 of the Penal Code, if the employee or prospective employee has
7 been rehabilitated as provided in Section 4852.03 of the Penal
8 Code, has maintained the conduct required in Section 4852.05 of
9 the Penal Code for at least 10 years, and has the recommendation
10 of the district attorney representing the employee's county of
11 residence, or if the employee or prospective employee has received
12 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
13 with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

14 (B) A felony offense specified in Section 729 of the Business
15 and Professions Code or Section 206 or 215, subdivision (a) of
16 Section 347, subdivision (b) of Section 417, or subdivision (a) of
17 Section 451 of the Penal Code.

18 (2) The department may not prohibit a person from being
19 employed or having contact with clients in a facility on the basis
20 of a denied criminal record exemption request or arrest information
21 unless the department complies with the requirements of Section
22 1558.

23 (h) (1) For purposes of compliance with this section, the
24 department may permit an individual to transfer a current criminal
25 record clearance, as defined in subdivision (a), from one facility
26 to another, as long as the criminal record clearance has been
27 processed through a state licensing district office, and is being
28 transferred to another facility licensed by a state licensing district
29 office. The request shall be in writing to the State Department of
30 Social Services, and shall include a copy of the person's driver's
31 license or valid identification card issued by the Department of
32 Motor Vehicles, or a valid photo identification issued by another
33 state or the United States government if the person is not a
34 California resident. Upon request of the licensee, who shall enclose
35 a self-addressed envelope for this purpose, the State Department
36 of Social Services shall verify whether the individual has a
37 clearance that can be transferred.

38 (2) The State Department of Social Services shall hold criminal
39 record clearances in its active files for a minimum of two years

1 after an employee is no longer employed at a licensed facility in
2 order for the criminal record clearance to be transferred.

3 (3) The following shall apply to a criminal record clearance or
4 exemption from the department or a county office with
5 department-delegated licensing authority:

6 (A) A county office with department-delegated licensing
7 authority may accept a clearance or exemption from the
8 department.

9 (B) The department may accept a clearance or exemption from
10 any county office with department-delegated licensing authority.

11 (C) A county office with department-delegated licensing
12 authority may accept a clearance or exemption from any other
13 county office with department-delegated licensing authority.

14 (4) With respect to notifications issued by the Department of
15 Justice pursuant to Section 11105.2 of the Penal Code concerning
16 an individual whose criminal record clearance was originally
17 processed by the department or a county office with
18 department-delegated licensing authority, all of the following shall
19 apply:

20 (A) The Department of Justice shall process a request from the
21 department or a county office with department-delegated licensing
22 authority to receive the notice only if all of the following conditions
23 are met:

24 (i) The request shall be submitted to the Department of Justice
25 by the agency to be substituted to receive the notification.

26 (ii) The request shall be for the same applicant type as the type
27 for which the original clearance was obtained.

28 (iii) The request shall contain all prescribed data elements and
29 format protocols pursuant to a written agreement between the
30 department and the Department of Justice.

31 (B) (i) On or before January 7, 2005, the department shall notify
32 the Department of Justice of all county offices that have
33 department-delegated licensing authority.

34 (ii) The department shall notify the Department of Justice within
35 15 calendar days of the date on which a new county office receives
36 department-delegated licensing authority or a county's delegated
37 licensing authority is rescinded.

38 (C) The Department of Justice shall charge the department-~~or~~,
39 a county office with department-delegated licensing authority, *or*
40 *county child welfare agency with criminal record clearance and*

1 *exemption authority, a fee for each time a request to substitute the*
2 *recipient agency is received for purposes of this paragraph. This*
3 *fee shall not exceed the cost of providing the service.*

4 *(5) (A) A county child welfare agency with authority to secure*
5 *clearances pursuant to Section 16504.5 of the Welfare and*
6 *Institutions Code and to grant exemptions pursuant to Section*
7 *361.4 of the Welfare and Institutions Code may accept a clearance*
8 *or exemption from another county with criminal record and*
9 *exemption authority pursuant to these sections.*

10 *(B) With respect to notifications issued by the Department of*
11 *Justice pursuant to Section 11105.2 of the Penal Code concerning*
12 *an individual whose criminal record clearance was originally*
13 *processed by a county child welfare agency with criminal record*
14 *clearance and exemption authority, the Department of Justice shall*
15 *process a request from a county child welfare agency with criminal*
16 *record and exemption authority to receive the notice only if all of*
17 *the following conditions are met:*

18 *(i) The request shall be submitted to the Department of Justice*
19 *by the agency to be substituted to receive the notification.*

20 *(ii) The request shall be for the same applicant type as the type*
21 *for which the original clearance was obtained.*

22 *(iii) The request shall contain all prescribed data elements and*
23 *format protocols pursuant to a written agreement between the*
24 *State Department of Social Services and the Department of Justice.*

25 *(i) The full criminal record obtained for purposes of this section*
26 *may be used by the department or by a licensed adoption agency*
27 *as a clearance required for adoption purposes.*

28 *(j) If a licensee or facility is required by law to deny employment*
29 *or to terminate employment of any employee based on written*
30 *notification from the state department that the employee has a prior*
31 *criminal conviction or is determined unsuitable for employment*
32 *under Section 1558, the licensee or facility shall not incur civil*
33 *liability or unemployment insurance liability as a result of that*
34 *denial or termination.*

35 *(k) The State Department of Social Services may charge a fee*
36 *for the costs of processing electronic fingerprint images and related*
37 *information.*

38 *(l) Amendments to this section made in the 1999 portion of the*
39 *1999–2000 Regular Session shall be implemented commencing*
40 *60 days after the effective date of the act amending this section in*

1 the 1999 portion of the 1999–2000 Regular Session, except that
2 those provisions for the submission of fingerprints for searching
3 the records of the Federal Bureau of Investigation shall be
4 implemented 90 days after the effective date of that act.

5 *SEC. 2. Section 1568.09 of the Health and Safety Code is*
6 *amended to read:*

7 1568.09. It is the intent of the Legislature in enacting this
8 section to require the electronic fingerprint images of those
9 individuals whose contact with residents of residential care
10 facilities for persons with a chronic, life-threatening illness may
11 pose a risk to the residents' health and safety.

12 It is the intent of the Legislature, in enacting this section, to
13 require the electronic fingerprint images of those individuals whose
14 contact with community care clients may pose a risk to the clients'
15 health and safety. An individual shall be required to obtain either
16 a criminal record clearance or a criminal record exemption from
17 the State Department of Social Services before his or her initial
18 presence in a residential care facility for persons with chronic,
19 ~~life-threatening illness~~ *illnesses*.

20 (a) (1) Before issuing a license to any person or persons to
21 operate or manage a residential care facility, the department shall
22 secure from an appropriate law enforcement agency a criminal
23 record to determine whether the applicant or any other person
24 specified in subdivision (b) has ever been convicted of a crime
25 other than a minor traffic violation or arrested for any crime
26 specified in *subdivision (c) of Section 290 of the Penal Code*, for
27 violating Section 245 or 273.5, subdivision (b) of Section 273a or,
28 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
29 Code, or for any crime for which the department cannot grant an
30 exemption if the person was convicted and the person has not been
31 exonerated.

32 (2) The criminal history information shall include the full
33 criminal record if any, of those persons, and subsequent arrest
34 information pursuant to Section 11105.2 of the Penal Code.

35 (3) The following shall apply to the criminal record information:

36 (A) If the State Department of Social Services finds that the
37 applicant or any other person specified in subdivision (b) has been
38 convicted of a crime, other than a minor traffic violation, the
39 application shall be denied, unless the director grants an exemption
40 pursuant to subdivision (f).

1 (B) If the State Department of Social Services finds that the
2 applicant, or any other person specified in subdivision (b) is
3 awaiting trial for a crime other than a minor traffic violation, the
4 State Department of Social Services may cease processing the
5 application until the conclusion of the trial.

6 (C) If no criminal record information has been recorded, the
7 Department of Justice shall provide the applicant and the State
8 Department of Social Services with a statement of that fact.

9 (D) If the State Department of Social Services finds after
10 licensure that the licensee, or any other person specified in
11 paragraph (2) of subdivision (b), has been convicted of a crime
12 other than a minor traffic violation, the license may be revoked,
13 unless the director grants an exemption pursuant to subdivision
14 (f).

15 (E) An applicant and any other person specified in subdivision
16 (b) shall submit fingerprint images and related information to the
17 Department of Justice and the Federal Bureau of Investigation,
18 through the Department of Justice, for a state and federal level
19 criminal offender record information search, in addition to the
20 search required by this subdivision. If an applicant meets all other
21 conditions for licensure, except receipt of the Federal Bureau of
22 Investigation's criminal history information for the applicant and
23 persons listed in subdivision (b), the department may issue a license
24 if the applicant and each person described by subdivision (b) has
25 signed and submitted a statement that he or she has never been
26 convicted of a crime in the United States, other than a traffic
27 infraction as defined in paragraph (1) of subdivision (a) of Section
28 42001 of the Vehicle Code. If, after licensure, the department
29 determines that the licensee or person specified in subdivision (b)
30 has a criminal record, the license may be revoked pursuant to
31 subdivision (a) of Section 1568.082. The department may also
32 suspend the license pending an administrative hearing pursuant to
33 subdivision (b) of Section 1568.082.

34 (b) In addition to the applicant, the provisions of this section
35 shall be applicable to criminal convictions of the following persons:

36 (1) Adults responsible for administration or direct supervision
37 of staff of the facility.

38 (2) Any person, other than a resident, residing in the facility.

39 (3) Any person who provides resident assistance in dressing,
40 grooming, bathing, or personal hygiene. Any nurse assistant or

1 home health aide meeting the requirements of Section 1338.5 or
2 1736.6, respectively, who is not employed, retained, or contracted
3 by the licensee, and who has been certified or recertified on or
4 after July 1, 1998, shall be deemed to meet the criminal record
5 clearance requirements of this section. A certified nurse assistant
6 and certified home health aide who will be providing client
7 assistance and who falls under this exemption shall provide one
8 copy of his or her current certification, prior to providing care, to
9 the residential care facility for persons with chronic, life-threatening
10 illness. The facility shall maintain the copy of the certification on
11 file as long as care is being provided by the certified nurse assistant
12 or certified home health aide at the facility. Nothing in this
13 paragraph restricts the right of the department to exclude a certified
14 nurse assistant or certified home health aide from a licensed
15 residential care facility for persons with chronic, life-threatening
16 illness pursuant to Section 1568.092.

17 (4) (A) Any staff person, volunteer, or employee who has
18 contact with the residents.

19 (B) A volunteer shall be exempt from the requirements of this
20 subdivision if he or she is a relative, significant other, or close
21 friend of a client receiving care in the facility and the volunteer
22 does not provide direct care and supervision of residents. A
23 volunteer who provides direct care and supervision shall be exempt
24 if the volunteer is a resident's spouse, significant other, close
25 friend, or family member and provides direct care and supervision
26 to that resident only at the request of the resident. The department
27 may define in regulations persons similar to those described in this
28 subparagraph who may be exempt from the requirements of this
29 subdivision.

30 (5) If the applicant is a firm, partnership, association, or
31 corporation, the chief executive officer or other person serving in
32 that capacity.

33 (6) Additional officers of the governing body of the applicant,
34 or other persons with a financial interest in the applicant, as
35 determined necessary by the department by regulation. The criteria
36 used in the development of these regulations shall be based on the
37 person's capability to exercise substantial influence over the
38 operation of the facility.

39 (c) (1) (A) Subsequent to initial licensure, any person specified
40 in subdivision (b) and not exempted from fingerprinting shall, as

1 a condition to employment, residence, or presence in a residential
2 care facility, be fingerprinted and sign a declaration under penalty
3 of perjury regarding any prior criminal convictions. The licensee
4 shall submit fingerprint images and related information to the
5 Department of Justice and the Federal Bureau of Investigation,
6 through the Department of Justice, for a state and federal level
7 criminal offender record information search, or to comply with
8 paragraph (1) of subdivision (g), prior to the person's employment,
9 residence, or initial presence in the residential care facility.

10 (B) These fingerprint images and related information shall be
11 electronically submitted to the Department of Justice in a manner
12 approved by the State Department of Social Services and the
13 Department of Justice, for the purpose of obtaining a permanent
14 set of fingerprints. A licensee's failure to submit fingerprint images
15 and related information to the Department of Justice, or to comply
16 with paragraph (1) of subdivision (g), as required in this section,
17 shall result in the citation of a deficiency and an immediate
18 assessment of civil penalties in the amount of one hundred dollars
19 (\$100) per violation; per day for a maximum of five days, unless
20 the violation is a second or subsequent violation within a 12-month
21 period in which case the civil penalties shall be in the amount of
22 one hundred dollars (\$100) per violation for a maximum of 30
23 days, and shall be grounds for disciplining the licensee pursuant
24 to Section 1568.082. The State Department of Social Services may
25 assess civil penalties for continued violations as allowed in Section
26 1568.0822. The fingerprint images and related information shall
27 then be submitted to the Department of Justice for processing. The
28 licensee shall maintain and make available for inspection
29 documentation of the individual's clearance or exemption.

30 (2) A violation of the regulations adopted pursuant to Section
31 1522.04 shall result in the citation of a deficiency and an immediate
32 assessment of civil penalties in the amount of one hundred dollars
33 (\$100) per violation per day for a maximum of five days, unless
34 the violation is a second or subsequent violation within a 12-month
35 period in which case the civil penalties shall be in the amount of
36 one hundred dollars (\$100) per violation for a maximum of 30
37 days, and shall be grounds for disciplining the licensee pursuant
38 to Section 1568.082. The department may assess civil penalties
39 for continued violations as permitted by Section 1568.0822.

1 (3) Within 14 calendar days of the receipt of the fingerprint
2 images, the Department of Justice shall notify the State Department
3 of Social Services of the criminal record information, as provided
4 for in this subdivision. If no criminal record information has been
5 recorded, the Department of Justice shall provide the licensee and
6 the State Department of Social Services with a statement of that
7 fact within 14 calendar days of receipt of the fingerprint images.
8 If new fingerprint images are required for processing, the
9 Department of Justice shall, within 14 calendar days from the date
10 of receipt of the fingerprint images, notify the licensee that the
11 fingerprint images were illegible. The Department of Justice shall
12 notify the department, as required by Section 1522.04, and shall
13 notify the licensee by mail within 14 days of electronic
14 transmission of the fingerprint images to the Department of Justice,
15 if the person has no criminal history record.

16 (4) Except for persons specified in paragraph (2) of subdivision
17 (b), the licensee shall endeavor to ascertain the previous
18 employment history of persons required to be fingerprinted under
19 this subdivision. If it is determined by the State Department of
20 Social Services, on the basis of the fingerprint images submitted
21 to the Department of Justice, that the person has been convicted
22 of a sex offense against a minor, an offense specified in Section
23 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony,
24 the department shall notify the licensee to act immediately to
25 terminate the person's employment, remove the person from the
26 residential care facility, or bar the person from entering the
27 residential care facility. The department may subsequently grant
28 an exemption pursuant to subdivision (f). If the conviction was for
29 another crime, except a minor traffic violation, the licensee shall,
30 upon notification by the department, act immediately to either (1)
31 terminate the person's employment, remove the person from the
32 residential care facility, or bar the person from entering the
33 residential care facility; or (2) seek an exemption pursuant to
34 subdivision (f). The department shall determine if the person shall
35 be allowed to remain in the facility until a decision on the
36 exemption is rendered. A licensee's failure to comply with the
37 department's prohibition of employment, contact with clients, or
38 presence in the facility as required by this paragraph shall result
39 in a citation of deficiency and an immediate assessment of civil
40 penalties by the department against the licensee, in the amount of

1 one hundred dollars (\$100) per violation; per day for a maximum
2 of five days, unless the violation is a second or subsequent violation
3 within a 12-month period in which case the civil penalties shall
4 be in the amount of one hundred dollars (\$100) per violation for
5 a maximum of 30 days, and shall be grounds for disciplining the
6 licensee pursuant to Section 1568.082.

7 (5) The department may issue an exemption on its own motion
8 pursuant to subdivision (f) if the person's criminal history indicates
9 that the person is of good character based on the age, seriousness,
10 and frequency of the conviction or convictions. The department,
11 in consultation with interested parties, shall develop regulations
12 to establish the criteria to grant an exemption pursuant to this
13 paragraph.

14 (6) Concurrently with notifying the licensee pursuant to
15 paragraph (4), the department shall notify the affected individual
16 of his or her right to seek an exemption pursuant to subdivision
17 (f). The individual may seek an exemption only if the licensee
18 terminates the person's employment or removes the person from
19 the facility after receiving notice from the department pursuant to
20 paragraph (4).

21 (d) (1) For purposes of this section or any other provision of
22 this chapter, a conviction means a plea or verdict of guilty or a
23 conviction following a plea of nolo contendere. Any action that
24 the department is permitted to take following the establishment of
25 a conviction may be taken when the time for appeal has elapsed,
26 when the judgment of conviction has been affirmed on appeal, or
27 when an order granting probation is made suspending the
28 imposition of the sentence, notwithstanding a subsequent order
29 pursuant to Sections 1203.4 and 1203.4a of the Penal Code
30 permitting that person to withdraw his or her plea of guilty and to
31 enter a plea of not guilty, setting aside the verdict of guilty, or
32 dismissing the accusation, information, or indictment. For purposes
33 of this chapter, the record of a conviction, or a copy thereof
34 certified by the clerk of the court or by a judge of the court in
35 which the conviction occurred, shall be conclusive evidence of the
36 conviction. For purposes of this section or any other provision of
37 this chapter, the arrest disposition report certified by the
38 Department of Justice, or documents admissible in a criminal action
39 pursuant to Section 969b of the Penal Code, shall be prima facie
40 evidence of the conviction, notwithstanding any other provision

1 of law prohibiting the admission of these documents in a civil or
2 administrative action.

3 (2) For purposes of this section or any other provision of this
4 chapter, the department shall consider criminal convictions from
5 another state or federal court as if the criminal offense was
6 committed in this state.

7 (e) The State Department of Social Services may not use a
8 record of arrest to deny, revoke, or terminate any application,
9 license, employment, or residence unless the department
10 investigates the incident and secures evidence, whether or not
11 related to the incident of arrest, that is admissible in an
12 administrative hearing to establish conduct by the person that may
13 pose a risk to the health and safety of any person who is or may
14 become a client. The State Department of Social Services is
15 authorized to obtain any arrest or conviction records or reports
16 from any law enforcement agency as necessary to the performance
17 of its duties to inspect, license, and investigate community care
18 facilities and individuals associated with a community care facility.

19 (f) (1) After review of the record, the director may grant an
20 exemption from disqualification for a license as specified in
21 paragraphs (1) and (4) of subdivision (a), or for employment,
22 residence, or presence in a residential care facility as specified in
23 paragraphs (4), (5), and (6) of subdivision (c) if the director has
24 substantial and convincing evidence to support a reasonable belief
25 that the applicant and the person convicted of the crime, if other
26 than the applicant, are of such good character as to justify issuance
27 of the license or special permit or granting an exemption for
28 purposes of subdivision (c). However, an exemption may not be
29 granted pursuant to this subdivision if the conviction was for any
30 of the following offenses:

31 (A) An offense specified in Section 220, 243.4, or 264.1,
32 subdivision (a) of Section 273a or, prior to January 1, 1994,
33 paragraph (1) of Section 273a, Section 273d, 288, or 289,
34 subdivision ~~(a)~~ (c) of Section 290, or Section 368 of the Penal
35 Code, or was a conviction of another crime against an individual
36 specified in subdivision (c) of Section 667.5 of the Penal Code.

37 (B) A felony offense specified in Section 729 of the Business
38 and ~~Professional~~ *Professions* Code or Section 206 or 215,
39 subdivision (a) of Section 347, subdivision (b) of Section 417, or
40 subdivision (a) of Section 451 of the Penal Code.

(2) The department may not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1568.092.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal record clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another facility licensed by a state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) (1) The Department of Justice shall charge a fee sufficient to cover its cost in providing services to comply with the 14-day requirement contained in subdivision (c) for provision to the department of criminal record information.

(2) Paragraph (1) shall cease to be implemented when the department adopts emergency regulations pursuant to Section 1522.04, and shall become inoperative when permanent regulations are adopted under that section.

(j) Notwithstanding any other provision of law, the department may provide an individual with a copy of his or her state or federal

1 level criminal offender record information search response as
2 provided to that department by the Department of Justice if the
3 department has denied a criminal background clearance based on
4 this information and the individual makes a written request to the
5 department for a copy specifying an address to which it is to be
6 sent. The state or federal level criminal offender record information
7 search response shall not be modified or altered from its form or
8 content as provided by the Department of Justice and shall be
9 provided to the address specified by the individual in his or her
10 written request. The department shall retain a copy of the
11 individual's written request and the response and date provided.

12 *SEC. 3. Section 1569.17 of the Health and Safety Code is*
13 *amended to read:*

14 1569.17. The Legislature recognizes the need to generate timely
15 and accurate positive fingerprint identification of applicants as a
16 condition of issuing licenses, permits, or certificates of approval
17 for persons to operate or provide direct care services in a residential
18 care facility for the elderly. It is the intent of the Legislature in
19 enacting this section to require the fingerprints of those individuals
20 whose contact with clients of residential care facilities for the
21 elderly may pose a risk to the clients' health and safety. An
22 individual shall be required to obtain either a criminal record
23 clearance or a criminal record exemption from the State Department
24 of Social Services before his or her initial presence in a residential
25 care facility for the elderly.

26 (a) (1) Before issuing a license to any person or persons to
27 operate or manage a residential care facility for the elderly, the
28 department shall secure from an appropriate law enforcement
29 agency a criminal record to determine whether the applicant or
30 any other person specified in subdivision (b) has ever been
31 convicted of a crime other than a minor traffic violation or arrested
32 for any crime specified in *subdivision (c) of Section 290 of the*
33 *Penal Code*, for violating Section 245 or 273.5, subdivision (b) of
34 Section 273a or, prior to January 1, 1994, paragraph (2) of Section
35 273a of the Penal Code, or for any crime for which the department
36 cannot grant an exemption if the person was convicted and the
37 person has not been exonerated.

38 (2) The criminal history information shall include the full
39 criminal record, if any, of those persons, and subsequent arrest
40 information pursuant to Section 11105.2 of the Penal Code.

1 (3) The following shall apply to the criminal record information:

2 (A) If the State Department of Social Services finds that the
3 applicant or any other person specified in subdivision (b) has been
4 convicted of a crime, other than a minor traffic violation, the
5 application shall be denied, unless the director grants an exemption
6 pursuant to subdivision (f).

7 (B) If the State Department of Social Services finds that the
8 applicant, or any other person specified in subdivision (b) is
9 awaiting trial for a crime other than a minor traffic violation, the
10 State Department of Social Services may cease processing the
11 application until the conclusion of the trial.

12 (C) If no criminal record information has been recorded, the
13 Department of Justice shall provide the applicant and the State
14 Department of Social Services with a statement of that fact.

15 (D) If the State Department of Social Services finds after
16 licensure that the licensee, or any other person specified in
17 paragraph (2) of subdivision (b), has been convicted of a crime
18 other than a minor traffic violation, the license may be revoked,
19 unless the director grants an exemption pursuant to subdivision
20 (f).

21 (E) An applicant and any other person specified in subdivision
22 (b) shall submit fingerprint images and related information to the
23 Department of Justice and the Federal Bureau of Investigation,
24 through the Department of Justice, for a state and federal level
25 criminal offender record information search, in addition to the
26 search required by subdivision (a). If an applicant meets all other
27 conditions for licensure, except receipt of the Federal Bureau of
28 Investigation's criminal history information for the applicant and
29 persons listed in subdivision (b), the department may issue a license
30 if the applicant and each person described by subdivision (b) has
31 signed and submitted a statement that he or she has never been
32 convicted of a crime in the United States, other than a traffic
33 infraction as defined in paragraph (1) of subdivision (a) of Section
34 42001 of the Vehicle Code. If, after licensure, the department
35 determines that the licensee or person specified in subdivision (b)
36 has a criminal record, the license may be revoked pursuant to
37 Section 1569.50. The department may also suspend the license
38 pending an administrative hearing pursuant to Sections 1569.50
39 and 1569.51.

1 (b) In addition to the applicant, the provisions of this section
2 shall apply to criminal convictions of the following persons:

3 (1) (A) Adults responsible for administration or direct
4 supervision of staff.

5 (B) Any person, other than a client, residing in the facility.
6 Residents of unlicensed independent senior housing facilities that
7 are located in contiguous buildings on the same property as a
8 residential care facility for the elderly shall be exempt from these
9 requirements.

10 (C) Any person who provides client assistance in dressing,
11 grooming, bathing, or personal hygiene. Any nurse assistant or
12 home health aide meeting the requirements of Section 1338.5 or
13 1736.6, respectively, who is not employed, retained, or contracted
14 by the licensee, and who has been certified or recertified on or
15 after July 1, 1998, shall be deemed to meet the criminal record
16 clearance requirements of this section. A certified nurse assistant
17 and certified home health aide who will be providing client
18 assistance and who falls under this exemption shall provide one
19 copy of his or her current certification, prior to providing care, to
20 the residential care facility for the elderly. The facility shall
21 maintain the copy of the certification on file as long as the care is
22 being provided by the certified nurse assistant or certified home
23 health aide at the facility. Nothing in this paragraph restricts the
24 right of the department to exclude a certified nurse assistant or
25 certified home health aide from a licensed residential care facility
26 for the elderly pursuant to Section 1569.58.

27 (D) Any staff person, volunteer, or employee who has contact
28 with the clients.

29 (E) If the applicant is a firm, partnership, association, or
30 corporation, the chief executive officer or other person serving in
31 a similar capacity.

32 (F) Additional officers of the governing body of the applicant
33 or other persons with a financial interest in the applicant, as
34 determined necessary by the department by regulation. The criteria
35 used in the development of these regulations shall be based on the
36 person's capability to exercise substantial influence over the
37 operation of the facility.

38 (2) The following persons are exempt from requirements
39 applicable under paragraph (1):

1 (A) A spouse, relative, significant other, or close friend of a
2 client shall be exempt if this person is visiting the client or provides
3 direct care and supervision to that client only.

4 (B) A volunteer to whom all of the following apply:

5 (i) The volunteer is at the facility during normal waking hours.

6 (ii) The volunteer is directly supervised by the licensee or a
7 facility employee with a criminal record clearance or exemption.

8 (iii) The volunteer spends no more than 16 hours per week at
9 the facility.

10 (iv) The volunteer does not provide clients with assistance in
11 dressing, grooming, bathing, or personal hygiene.

12 (v) The volunteer is not left alone with clients in care.

13 (C) A third-party contractor retained by the facility if the
14 contractor is not left alone with clients in care.

15 (D) A third-party contractor or other business professional
16 retained by a client and at the facility at the request or by
17 permission of that client. These individuals may not be left alone
18 with other clients.

19 (E) Licensed or certified medical professionals are exempt from
20 fingerprint and criminal background check requirements imposed
21 by community care licensing. This exemption does not apply to a
22 person who is a community care facility licensee or an employee
23 of the facility.

24 (F) Employees of licensed home health agencies and members
25 of licensed hospice interdisciplinary teams who have contact with
26 a resident of a residential care facility at the request of the resident
27 or resident's legal decisionmaker are exempt from fingerprint and
28 criminal background check requirements imposed by community
29 care licensing. This exemption does not apply to a person who is
30 a community care facility licensee or an employee of the facility.

31 (G) Clergy and other spiritual caregivers who are performing
32 services in common areas of the residential care facility, or who
33 are advising an individual resident at the request of, or with
34 permission of, the resident, are exempt from fingerprint and
35 criminal background check requirements imposed by community
36 care licensing. This exemption does not apply to a person who is
37 a community care facility licensee or an employee of the facility.

38 (H) Any person similar to those described in this subdivision,
39 as defined by the department in regulations.

1 (I) Nothing in this paragraph shall prevent a licensee from
2 requiring a criminal record clearance of any individual exempt
3 from the requirements of this section, provided that the individual
4 has client contact.

5 (c) (1) (A) Subsequent to initial licensure, any person required
6 to be fingerprinted pursuant to subdivision (b) shall, as a condition
7 to employment, residence, or presence in a residential facility for
8 the elderly, be fingerprinted and sign a declaration under penalty
9 of perjury regarding any prior criminal convictions. The licensee
10 shall submit these fingerprint images and related information to
11 the Department of Justice and the Federal Bureau of Investigation,
12 through the Department of Justice, for a state and federal level
13 criminal offender record information search, or to comply with
14 paragraph (1) of subdivision (g) prior to the person's employment,
15 residence, or initial presence in the residential care facility for the
16 elderly.

17 (B) These fingerprint images and related information shall be
18 electronically transmitted in a manner approved by the State
19 Department of Social Services and the Department of Justice. A
20 licensee's failure to submit fingerprint images and related
21 information to the Department of Justice, or to comply with
22 paragraph (1) of subdivision (g), as required in this section, shall
23 result in the citation of a deficiency and an immediate assessment
24 of civil penalties in the amount of one hundred dollars (\$100) per
25 violation; per day for a maximum of five days, unless the violation
26 is a second or subsequent violation within a 12-month period in
27 which case the civil penalties shall be in the amount of one hundred
28 dollars (\$100) per violation for a maximum of 30 days, and shall
29 be grounds for disciplining the licensee pursuant to Section
30 1569.50. The State Department of Social Services may assess civil
31 penalties for continued violations as permitted by Section 1569.49.
32 The licensee shall then submit these fingerprint images to the State
33 Department of Social Services for processing. Documentation of
34 the individual's clearance or exemption shall be maintained by the
35 licensee and be available for inspection. The Department of Justice
36 shall notify the department, as required by Section 1522.04, and
37 notify the licensee by mail within 14 days of electronic
38 transmission of the fingerprints to the Department of Justice, if
39 the person has no criminal record. A violation of the regulations
40 adopted pursuant to Section 1522.04 shall result in the citation of

1 a deficiency and an immediate assessment of civil penalties in the
2 amount of one hundred dollars (\$100) per violation; per day for a
3 maximum of five days, unless the violation is a second or
4 subsequent violation within a 12-month period in which case the
5 civil penalties shall be in the amount of one hundred dollars (\$100)
6 per violation for a maximum of 30 days, and shall be grounds for
7 disciplining the licensee pursuant to Section 1569.50. The
8 department may assess civil penalties for continued violations as
9 permitted by Section 1569.49.

10 (2) Within 14 calendar days of the receipt of the fingerprint
11 images, the Department of Justice shall notify the State Department
12 of Social Services of the criminal record information, as provided
13 for in this subdivision. If no criminal record information has been
14 recorded, the Department of Justice shall provide the licensee and
15 the State Department of Social Services with a statement of that
16 fact within 14 calendar days of receipt of the fingerprint images.
17 If new fingerprint images are required for processing, the
18 Department of Justice shall, within 14 calendar days from the date
19 of receipt of the fingerprint images, notify the licensee that the
20 fingerprint images were illegible.

21 (3) Except for persons specified in paragraph (2) of subdivision
22 (b), the licensee shall endeavor to ascertain the previous
23 employment history of persons required to be fingerprinted under
24 this subdivision. If the State Department of Social Services
25 determines, on the basis of the fingerprint images submitted to the
26 Department of Justice, that the person has been convicted of a sex
27 offense against a minor, an offense specified in Section 243.4,
28 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State
29 Department of Social Services shall notify the licensee in writing
30 within 15 calendar days of the receipt of the notification from the
31 Department of Justice to act immediately to terminate the person's
32 employment, remove the person from the residential care facility
33 for the elderly, or bar the person from entering the residential care
34 facility for the elderly. The State Department of Social Services
35 may subsequently grant an exemption pursuant to subdivision (f).
36 If the conviction was for another crime, except a minor traffic
37 violation, the licensee shall, upon notification by the State
38 Department of Social Services, act immediately to either (1)
39 terminate the person's employment, remove the person from the
40 residential care facility for the elderly, or bar the person from

1 entering the residential care facility for the elderly or (2) seek an
2 exemption pursuant to subdivision (f). The department shall
3 determine if the person shall be allowed to remain in the facility
4 until a decision on the exemption is rendered by the department.
5 A licensee's failure to comply with the department's prohibition
6 of employment, contact with clients, or presence in the facility as
7 required by this paragraph shall result in a citation of deficiency
8 and an immediate assessment of civil penalties by the department
9 against the licensee, in the amount of one hundred dollars (\$100)
10 per violation; per day for a maximum of five days, unless the
11 violation is a second or subsequent violation within a 12-month
12 period in which case the civil penalties shall be in the amount of
13 one hundred dollars (\$100) per violation for a maximum of 30
14 days, and shall be grounds for disciplining the licensee pursuant
15 to Section 1569.50.

16 (4) The department may issue an exemption on its own motion
17 pursuant to subdivision (f) if the person's criminal history indicates
18 that the person is of good character based on the age, seriousness,
19 and frequency of the conviction or convictions. The department,
20 in consultation with interested parties, shall develop regulations
21 to establish the criteria to grant an exemption pursuant to this
22 paragraph.

23 (5) Concurrently with notifying the licensee pursuant to
24 paragraph (4), the department shall notify the affected individual
25 of his or her right to seek an exemption pursuant to subdivision
26 (f). The individual may seek an exemption only if the licensee
27 terminates the person's employment or removes the person from
28 the facility after receiving notice from the department pursuant to
29 paragraph (4).

30 (d) (1) For purposes of this section or any other provision of
31 this chapter, a conviction means a plea or verdict of guilty or a
32 conviction following a plea of nolo contendere. Any action that
33 the department is permitted to take following the establishment of
34 a conviction may be taken when the time for appeal has elapsed,
35 when the judgment of conviction has been affirmed on appeal or
36 when an order granting probation is made suspending the
37 imposition of the sentence, notwithstanding a subsequent order
38 pursuant to the provisions of Sections 1203.4 and 1203.4a of the
39 Penal Code permitting a person to withdraw his or her plea of
40 guilty and to enter a plea of not guilty, or setting aside the verdict

1 of guilty, or dismissing the accusation, information, or indictment.
2 For purposes of this section or any other provision of this chapter,
3 the record of a conviction, or a copy thereof certified by the clerk
4 of the court or by a judge of the court in which the conviction
5 occurred, shall be conclusive evidence of the conviction. For
6 purposes of this section or any other provision of this chapter, the
7 arrest disposition report certified by the Department of Justice or
8 documents admissible in a criminal action pursuant to Section
9 969b of the Penal Code shall be prima facie evidence of the
10 conviction, notwithstanding any other provision of law prohibiting
11 the admission of these documents in a civil or administrative action.

12 (2) For purposes of this section or any other provision of this
13 chapter, the department shall consider criminal convictions from
14 another state or federal court as if the criminal offense was
15 committed in this state.

16 (e) The State Department of Social Services may not use a
17 record of arrest to deny, revoke, or terminate any application,
18 license, employment, or residence unless the department
19 investigates the incident and secures evidence, whether or not
20 related to the incident of arrest, that is admissible in an
21 administrative hearing to establish conduct by the person that may
22 pose a risk to the health and safety of any person who is or may
23 become a client. The State Department of Social Services is
24 authorized to obtain any arrest or conviction records or reports
25 from any law enforcement agency as necessary to the performance
26 of its duties to inspect, license, and investigate community care
27 facilities and individuals associated with a community care facility.

28 (f) (1) After review of the record, the director may grant an
29 exemption from disqualification for a license as specified in
30 paragraphs (1) and (4) of subdivision (a), or for employment,
31 residence, or presence in a residential care facility for the elderly
32 as specified in paragraphs (4), (5), and (6) of subdivision (c) if the
33 director has substantial and convincing evidence to support a
34 reasonable belief that the applicant and the person convicted of
35 the crime, if other than the applicant, are of such good character
36 as to justify issuance of the license or special permit or granting
37 an exemption for purposes of subdivision (c). However, an
38 exemption may not be granted pursuant to this subdivision if the
39 conviction was for any of the following offenses:

1 (A) An offense specified in Section 220, 243.4, or 264.1,
2 subdivision (a) of Section 273a or, prior to January 1, 1994,
3 paragraph (1) of Section 273a, Section 273d, 288, or 289,
4 subdivision ~~(a)~~ (c) of Section 290, or Section 368 of the Penal
5 Code, or was a conviction of another crime against an individual
6 specified in subdivision (c) of Section 667.5 of the Penal Code.

7 (B) A felony offense specified in Section 729 of the Business
8 and Professions Code or Section 206 or 215, subdivision (a) of
9 Section 347, subdivision (b) of Section 417, or subdivision (a) of
10 Section 451 of the Penal Code.

11 (2) The director shall notify in writing the licensee or the
12 applicant of his or her decision within 60 days of receipt of all
13 information from the applicant and other sources determined
14 necessary by the director for the rendering of a decision pursuant
15 to this subdivision.

16 (3) The department may not prohibit a person from being
17 employed or having contact with clients in a facility on the basis
18 of a denied criminal record exemption request or arrest information
19 unless the department complies with the requirements of Section
20 1569.58.

21 (g) (1) For purposes of compliance with this section, the
22 department may permit an individual to transfer a current criminal
23 record clearance, as defined in subdivision (a), from one facility
24 to another, as long as the criminal record clearance has been
25 processed through a state licensing district office, and is being
26 transferred to another facility licensed by a state licensing district
27 office. The request shall be submitted in writing to the department,
28 and shall include a copy of the person's driver's license or valid
29 identification card issued by the Department of Motor Vehicles,
30 or a valid photo identification issued by another state or the United
31 States government if the person is not a California resident. Upon
32 request of the licensee, who shall enclose a self-addressed stamped
33 envelope for this purpose, the department shall verify whether the
34 individual has a clearance that can be transferred.

35 (2) The State Department of Social Services shall hold criminal
36 record clearances in its active files for a minimum of two years
37 after an employee is no longer employed at a licensed facility in
38 order for the criminal record clearances to be transferred under
39 this section.

1 (h) If a licensee or facility is required by law to deny
2 employment or to terminate employment of any employee based
3 on written notification from the department that the employee has
4 a prior criminal conviction or is determined unsuitable for
5 employment under Section 1569.58, the licensee or facility shall
6 not incur civil liability or unemployment insurance liability as a
7 result of that denial or termination.

8 (i) Notwithstanding any other provision of law, the department
9 may provide an individual with a copy of his or her state or federal
10 level criminal offender record information search response as
11 provided to that department by the Department of Justice if the
12 department has denied a criminal background clearance based on
13 this information and the individual makes a written request to the
14 department for a copy specifying an address to which it is to be
15 sent. The state or federal level criminal offender record information
16 search response shall not be modified or altered from its form or
17 content as provided by the Department of Justice and shall be
18 provided to the address specified by the individual in his or her
19 written request. The department shall retain a copy of the
20 individual's written request and the response and date provided.

21 *SEC. 4. Section 1596.871 of the Health and Safety Code is*
22 *amended to read:*

23 1596.871. The Legislature recognizes the need to generate
24 timely and accurate positive fingerprint identification of applicants
25 as a condition of issuing licenses, permits, or certificates of
26 approval for persons to operate or provide direct care services in
27 a child care center or family child care home. It is the intent of the
28 Legislature in enacting this section to require the fingerprints of
29 those individuals whose contact with child day care facility clients
30 may pose a risk to the children's health and safety. An individual
31 shall be required to obtain either a criminal record clearance or a
32 criminal record exemption from the State Department of Social
33 Services before his or her initial presence in a child day care
34 facility.

35 (a) (1) Before issuing a license or special permit to any person
36 to operate or manage a day care facility, the department shall secure
37 from an appropriate law enforcement agency a criminal record to
38 determine whether the applicant or any other person specified in
39 subdivision (b) has ever been convicted of a crime other than a
40 minor traffic violation or arrested for any crime specified in

1 *subdivision (c) of Section 290 of the Penal Code, for violating*
2 *Section 245 or 273.5, subdivision (b) of Section 273a or, prior to*
3 *January 1, 1994, paragraph (2) of Section 273a of the Penal Code,*
4 *or for any crime for which the department cannot grant an*
5 *exemption if the person was convicted and the person has not been*
6 *exonerated.*

7 (2) The criminal history information shall include the full
8 criminal record, if any, of those persons, and subsequent arrest
9 information pursuant to Section 11105.2 of the Penal Code.

10 (3) Except during the 2003–04, 2004–05, 2005–06, 2006–07,
11 and 2007–08 fiscal years, neither the Department of Justice nor
12 the department may charge a fee for the fingerprinting of an
13 applicant who will serve six or fewer children or any family day
14 care applicant for a license, or for obtaining a criminal record of
15 an applicant pursuant to this section.

16 (4) The following shall apply to the criminal record information:

17 (A) If the State Department of Social Services finds that the
18 applicant or any other person specified in subdivision (b) has been
19 convicted of a crime, other than a minor traffic violation, the
20 application shall be denied, unless the director grants an exemption
21 pursuant to subdivision (f).

22 (B) If the State Department of Social Services finds that the
23 applicant, or any other person specified in subdivision (b), is
24 awaiting trial for a crime other than a minor traffic violation, the
25 State Department of Social Services may cease processing the
26 application until the conclusion of the trial.

27 (C) If no criminal record information has been recorded, the
28 Department of Justice shall provide the applicant and the State
29 Department of Social Services with a statement of that fact.

30 (D) If the State Department of Social Services finds after
31 licensure that the licensee, or any other person specified in
32 paragraph (2) of subdivision (b), has been convicted of a crime
33 other than a minor traffic violation, the license may be revoked,
34 unless the director grants an exemption pursuant to subdivision
35 (f).

36 (E) An applicant and any other person specified in subdivision
37 (b) shall submit fingerprint images and related information to the
38 Department of Justice and the Federal Bureau of Investigation,
39 through the Department of Justice, for a state and federal level
40 criminal offender record information search, in addition to the

1 search required by subdivision (a). If an applicant meets all other
2 conditions for licensure, except receipt of the Federal Bureau of
3 Investigation's criminal history information for the applicant and
4 persons listed in subdivision (b), the department may issue a license
5 if the applicant and each person described by subdivision (b) has
6 signed and submitted a statement that he or she has never been
7 convicted of a crime in the United States, other than a traffic
8 infraction as defined in paragraph (1) of subdivision (a) of Section
9 42001 of the Vehicle Code. If, after licensure, the department
10 determines that the licensee or person specified in subdivision (b)
11 has a criminal record, the license may be revoked pursuant to
12 Section 1596.885. The department may also suspend the license
13 pending an administrative hearing pursuant to Section 1596.886.

14 (b) (1) In addition to the applicant, this section shall be
15 applicable to criminal convictions of the following persons:

16 (A) Adults responsible for administration or direct supervision
17 of staff.

18 (B) Any person, other than a child, residing in the facility.

19 (C) Any person who provides care and supervision to the
20 children.

21 (D) Any staff person, volunteer, or employee who has contact
22 with the children.

23 (i) A volunteer providing time-limited specialized services shall
24 be exempt from the requirements of this subdivision if this person
25 is directly supervised by the licensee or a facility employee with
26 a criminal record clearance or exemption, the volunteer spends no
27 more than 16 hours per week at the facility, and the volunteer is
28 not left alone with children in care.

29 (ii) A student enrolled or participating at an accredited
30 educational institution shall be exempt from the requirements of
31 this subdivision if the student is directly supervised by the licensee
32 or a facility employee with a criminal record clearance or
33 exemption, the facility has an agreement with the educational
34 institution concerning the placement of the student, the student
35 spends no more than 16 hours per week at the facility, and the
36 student is not left alone with children in care.

37 (iii) A volunteer who is a relative, legal guardian, or foster parent
38 of a client in the facility shall be exempt from the requirements of
39 this subdivision.

1 (iv) A contracted repair person retained by the facility, if not
2 left alone with children in care, shall be exempt from the
3 requirements of this subdivision.

4 (v) Any person similar to those described in this subdivision,
5 as defined by the department in regulations.

6 (E) If the applicant is a firm, partnership, association, or
7 corporation, the chief executive officer, other person serving in
8 like capacity, or a person designated by the chief executive officer
9 as responsible for the operation of the facility, as designated by
10 the applicant agency.

11 (F) If the applicant is a local educational agency, the president
12 of the governing board, the school district superintendent, or a
13 person designated to administer the operation of the facility, as
14 designated by the local educational agency.

15 (G) Additional officers of the governing body of the applicant,
16 or other persons with a financial interest in the applicant, as
17 determined necessary by the department by regulation. The criteria
18 used in the development of these regulations shall be based on the
19 person's capability to exercise substantial influence over the
20 operation of the facility.

21 (H) This section does not apply to employees of child care and
22 development programs under contract with the State Department
23 of Education who have completed a criminal record clearance as
24 part of an application to the Commission on Teacher Credentialing,
25 and who possess a current credential or permit issued by the
26 commission, including employees of child care and development
27 programs that serve both children subsidized under, and children
28 not subsidized under, a State Department of Education contract.
29 The Commission on Teacher Credentialing shall notify the
30 department upon revocation of a current credential or permit issued
31 to an employee of a child care and development program under
32 contract with the State Department of Education.

33 (I) This section does not apply to employees of a child care and
34 development program operated by a school district, county office
35 of education, or community college district under contract with
36 the State Department of Education who have completed a criminal
37 record clearance as a condition of employment. The school district,
38 county office of education, or community college district upon
39 receiving information that the status of an employee's criminal

1 record clearance has changed shall submit that information to the
2 department.

3 (2) Nothing in this subdivision shall prevent a licensee from
4 requiring a criminal record clearance of any individuals exempt
5 from the requirements under this subdivision.

6 (c) (1) (A) Subsequent to initial licensure, any person specified
7 in subdivision (b) and not exempted from fingerprinting shall, as
8 a condition to employment, residence, or presence in a child day
9 care facility be fingerprinted and sign a declaration under penalty
10 of perjury regarding any prior criminal conviction. The licensee
11 shall submit fingerprint images and related information to the
12 Department of Justice and the Federal Bureau of Investigation,
13 through the Department of Justice, or to comply with paragraph
14 (1) of subdivision (h), prior to the person's employment, residence,
15 or initial presence in the child day care facility.

16 (B) These fingerprint images for the purpose of obtaining a
17 permanent set of fingerprints shall be electronically submitted to
18 the Department of Justice in a manner approved by the State
19 Department of Social Services and to the Department of Justice,
20 or to comply with paragraph (1) of subdivision (h), as required in
21 this section, shall result in the citation of a deficiency, and an
22 immediate assessment of civil penalties in the amount of one
23 hundred dollars (\$100) per violation; per day for a maximum of
24 five days, unless the violation is a second or subsequent violation
25 within a 12-month period in which case the civil penalties shall
26 be in the amount of one hundred dollars (\$100) per violation for
27 a maximum of 30 days, and shall be grounds for disciplining the
28 licensee pursuant to Section 1596.885 or Section 1596.886. The
29 State Department of Social Services may assess civil penalties for
30 continued violations permitted by Sections 1596.99 and 1597.62.
31 The fingerprint images and related information shall then be
32 submitted to the department for processing. Within 14 calendar
33 days of the receipt of the fingerprint images, the Department of
34 Justice shall notify the State Department of Social Services of the
35 criminal record information, as provided in this subdivision. If no
36 criminal record information has been recorded, the Department of
37 Justice shall provide the licensee and the State Department of
38 Social Services with a statement of that fact within 14 calendar
39 days of receipt of the fingerprint images. If new fingerprint images
40 are required for processing, the Department of Justice shall, within

1 14 calendar days from the date of receipt of the fingerprint images,
2 notify the licensee that the fingerprints were illegible.

3 (C) Documentation of the individual's clearance or exemption
4 shall be maintained by the licensee, and shall be available for
5 inspection. When live-scan technology is operational, as defined
6 in Section 1522.04, the Department of Justice shall notify the
7 department, as required by that section, and notify the licensee by
8 mail within 14 days of electronic transmission of the fingerprints
9 to the Department of Justice, if the person has no criminal record.
10 Any violation of the regulations adopted pursuant to Section
11 1522.04 shall result in the citation of a deficiency and an immediate
12 assessment of civil penalties in the amount of one hundred dollars
13 (\$100) per violation; per day for a maximum of five days, unless
14 the violation is a second or subsequent violation within a 12-month
15 period in which case the civil penalties shall be in the amount of
16 one hundred dollars (\$100) per violation for a maximum of 30
17 days, and shall be grounds for disciplining the licensee pursuant
18 to Section 1596.885 or Section 1596.886. The department may
19 assess civil penalties for continued violations, as permitted by
20 Sections 1596.99 and 1597.62.

21 (2) Except for persons specified in paragraph (2) of subdivision
22 (b), the licensee shall endeavor to ascertain the previous
23 employment history of persons required to be fingerprinted under
24 this subdivision. If it is determined by the department, on the basis
25 of fingerprints submitted to the Department of Justice, that the
26 person has been convicted of a sex offense against a minor, an
27 offense specified in Section 243.4, 273a, 273d, 273g, or 368 of
28 the Penal Code, or a felony, the State Department of Social
29 Services shall notify the licensee to act immediately to terminate
30 the person's employment, remove the person from the child day
31 care facility, or bar the person from entering the child day care
32 facility. The department may subsequently grant an exemption
33 pursuant to subdivision (f). If the conviction was for another crime
34 except a minor traffic violation, the licensee shall, upon notification
35 by the State Department of Social Services, act immediately to
36 either (1) terminate the person's employment, remove the person
37 from the child day care facility, or bar the person from entering
38 the child day care facility; or (2) seek an exemption pursuant to
39 subdivision (f). The department shall determine if the person shall
40 be allowed to remain in the facility until a decision on the

1 exemption is rendered. A licensee's failure to comply with the
2 department's prohibition of employment, contact with clients, or
3 presence in the facility as required by this paragraph shall result
4 in a citation of deficiency and an immediate assessment of civil
5 penalties by the department against the licensee, in the amount of
6 one hundred dollars (\$100) per violation; per day for a maximum
7 of five days, unless the violation is a second or subsequent violation
8 within a 12-month period in which case the civil penalties shall
9 be in the amount of one hundred dollars (\$100) per violation for
10 a maximum of 30 days, and shall be grounds for disciplining the
11 licensee pursuant to Section 1596.885 or 1596.886.

12 (3) The department may issue an exemption on its own motion
13 pursuant to subdivision (f) if the person's criminal history indicates
14 that the person is of good character based on the age, seriousness,
15 and frequency of the conviction or convictions. The department,
16 in consultation with interested parties, shall develop regulations
17 to establish the criteria to grant an exemption pursuant to this
18 paragraph.

19 (4) Concurrently with notifying the licensee pursuant to
20 paragraph (3), the department shall notify the affected individual
21 of his or her right to seek an exemption pursuant to subdivision
22 (f). The individual may seek an exemption only if the licensee
23 terminates the person's employment or removes the person from
24 the facility after receiving notice from the department pursuant to
25 paragraph (3).

26 (d) (1) For purposes of this section or any other provision of
27 this chapter, a conviction means a plea or verdict of guilty or a
28 conviction following a plea of nolo contendere. Any action that
29 the department is permitted to take following the establishment of
30 a conviction may be taken when the time for appeal has elapsed,
31 when the judgment of conviction has been affirmed on appeal, or
32 when an order granting probation is made suspending the
33 imposition of sentence, notwithstanding a subsequent order
34 pursuant to Sections 1203.4 and 1203.4a of the Penal Code
35 permitting the person to withdraw his or her plea of guilty and to
36 enter a plea of not guilty, or setting aside the verdict of guilty, or
37 dismissing the accusation, information, or indictment. For purposes
38 of this section or any other provision of this chapter, the record of
39 a conviction, or a copy thereof certified by the clerk of the court
40 or by a judge of the court in which the conviction occurred, shall

1 be conclusive evidence of the conviction. For purposes of this
2 section or any other provision of this chapter, the arrest disposition
3 report certified by the Department of Justice, or documents
4 admissible in a criminal action pursuant to Section 969b of the
5 Penal Code, shall be prima facie evidence of conviction,
6 notwithstanding any other provision of law prohibiting the
7 admission of these documents in a civil or administrative action.

8 (2) For purposes of this section or any other provision of this
9 chapter, the department shall consider criminal convictions from
10 another state or federal court as if the criminal offense was
11 committed in this state.

12 (e) The State Department of Social Services may not use a
13 record of arrest to deny, revoke, or terminate any application,
14 license, employment, or residence unless the department
15 investigates the incident and secures evidence, whether or not
16 related to the incident of arrest, that is admissible in an
17 administrative hearing to establish conduct by the person that may
18 pose a risk to the health and safety of any person who is or may
19 become a client. The State Department of Social Services is
20 authorized to obtain any arrest or conviction records or reports
21 from any law enforcement agency as necessary to the performance
22 of its duties to inspect, license, and investigate community care
23 facilities and individuals associated with a community care facility.

24 (f) (1) After review of the record, the director may grant an
25 exemption from disqualification for a license or special permit as
26 specified in paragraphs (1) and (4) of subdivision (a), or for
27 employment, residence, or presence in a child day care facility as
28 specified in paragraphs (3), (4), and (5) of subdivision (c) if the
29 director has substantial and convincing evidence to support a
30 reasonable belief that the applicant and the person convicted of
31 the crime, if other than the applicant, are of good character so as
32 to justify issuance of the license or special permit or granting an
33 exemption for purposes of subdivision (c). However, an exemption
34 may not be granted pursuant to this subdivision if the conviction
35 was for any of the following offenses:

36 (A) An offense specified in Section 220, 243.4, or 264.1,
37 subdivision (a) of Section 273a or, prior to January 1, 1994,
38 paragraph (1) of Section 273a, Section 273d, 288, or 289,
39 subdivision-(a) (c) of Section 290, or Section 368 of the Penal

1 Code, or was a conviction of another crime against an individual
2 specified in subdivision (c) of Section 667.5 of the Penal Code.

3 (B) A felony offense specified in Section 729 of the Business
4 and Professions Code or Section 206 or 215, subdivision (a) of
5 Section 347, subdivision (b) of Section 417, or subdivision (a) or
6 (b) of Section 451 of the Penal Code.

7 (2) The department may not prohibit a person from being
8 employed or having contact with clients in a facility on the basis
9 of a denied criminal record exemption request or arrest information
10 unless the department complies with the requirements of Section
11 1596.8897.

12 (g) Upon request of the licensee, who shall enclose a
13 self-addressed stamped postcard for this purpose, the Department
14 of Justice shall verify receipt of the fingerprint images.

15 (h) (1) For the purposes of compliance with this section, the
16 department may permit an individual to transfer a current criminal
17 record clearance, as defined in subdivision (a), from one facility
18 to another, as long as the criminal record clearance has been
19 processed through a state licensing district office, and is being
20 transferred to another facility licensed by a state licensing district
21 office. The request shall be in writing to the department, and shall
22 include a copy of the person's driver's license or valid
23 identification card issued by the Department of Motor Vehicles,
24 or a valid photo identification issued by another state or the United
25 States government if the person is not a California resident. Upon
26 request of the licensee, who shall enclose a self-addressed stamped
27 envelope for this purpose, the department shall verify whether the
28 individual has a clearance that can be transferred.

29 (2) The State Department of Social Services shall hold criminal
30 record clearances in its active files for a minimum of two years
31 after an employee is no longer employed at a licensed facility in
32 order for the criminal record clearances to be transferred.

33 (3) The following shall apply to a criminal record clearance or
34 exemption from the department or a county office with
35 department-delegated licensing authority:

36 (A) A county office with department-delegated licensing
37 authority may accept a clearance or exemption from the
38 department.

39 (B) The department may accept a clearance or exemption from
40 any county office with department-delegated licensing authority.

1 (C) A county office with department-delegated licensing
2 authority may accept a clearance or exemption from any other
3 county office with department-delegated licensing authority.

4 (4) With respect to notifications issued by the Department of
5 Justice pursuant to Section 11105.2 of the Penal Code concerning
6 an individual whose criminal record clearance was originally
7 processed by the department or a county office with
8 department-delegated licensing authority, all of the following shall
9 apply:

10 (A) The Department of Justice shall process a request from the
11 department or a county office with department-delegated licensing
12 authority to receive the notice, only if all of the following
13 conditions are met:

14 (i) The request shall be submitted to the Department of Justice
15 by the agency to be substituted to receive the notification.

16 (ii) The request shall be for the same applicant type as the type
17 for which the original clearance was obtained.

18 (iii) The request shall contain all prescribed data elements and
19 format protocols pursuant to a written agreement between the
20 department and the Department of Justice.

21 (B) (i) On or before January 7, 2005, the department shall notify
22 the Department of Justice of all county offices that have
23 department-delegated licensing authority.

24 (ii) The department shall notify the Department of Justice within
25 15 calendar days of the date on which a new county office receives
26 department-delegated licensing authority or a county's delegated
27 licensing authority is rescinded.

28 (C) The Department of Justice shall charge the department or
29 a county office with department-delegated licensing authority a
30 fee for each time a request to substitute the recipient agency is
31 received for purposes of this paragraph. This fee shall not exceed
32 the cost of providing the service.

33 (i) Notwithstanding any other provision of law, the department
34 may provide an individual with a copy of his or her state or federal
35 level criminal offender record information search response as
36 provided to that department by the Department of Justice if the
37 department has denied a criminal background clearance based on
38 this information and the individual makes a written request to the
39 department for a copy specifying an address to which it is to be
40 sent. The state or federal level criminal offender record information

1 search response shall not be modified or altered from its form or
2 content as provided by the Department of Justice and shall be
3 provided to the address specified by the individual in his or her
4 written request. The department shall retain a copy of the
5 individual's written request and the response and date provided.

6 **SECTION 1.**

7 *SEC. 5.* Section 288.3 of the Penal Code, as added by Section
8 7 of Chapter 337 of the Statutes of 2006, is amended and
9 renumbered to read:

10 288.4. (a) (1) Every person who, motivated by an unnatural
11 or abnormal sexual interest in children, arranges a meeting with a
12 minor or a person he or she believes to be a minor for the purpose
13 of exposing his or her genitals or pubic or rectal area, having the
14 child expose his or her genitals or pubic or rectal area, or engaging
15 in lewd or lascivious behavior, shall be punished by a fine not
16 exceeding five thousand dollars (\$5,000), by imprisonment in a
17 county jail not exceeding one year, or by both the fine and
18 imprisonment.

19 (2) Every person who violates this subdivision after a prior
20 conviction for an offense listed in subdivision (c) of Section 290
21 shall be punished by imprisonment in the state prison.

22 (b) Every person described in paragraph (1) of subdivision (a)
23 who goes to the arranged meeting place at or about the arranged
24 time, shall be punished by imprisonment in the state prison for
25 two, three, or four years.

26 (c) Nothing in this section shall preclude or prohibit prosecution
27 under any other provision of law.

28 *SEC. 6.* Section 289.5 of the Penal Code is amended to read:

29 289.5. (a) Every person who flees to this state with the intent
30 to avoid prosecution for an offense which, if committed or
31 attempted in this state, would have been punishable as one or more
32 of the offenses described in ~~subparagraph (A) of paragraph (2) of~~
33 ~~subdivision (a)~~ subdivision (c) of Section 290, and who has been
34 charged with that offense under the laws of the jurisdiction from
35 which the person fled, is guilty of a misdemeanor.

36 (b) Every person who flees to this state with the intent to avoid
37 custody or confinement imposed for conviction of an offense under
38 the laws of the jurisdiction from which the person fled, which
39 offense, if committed or attempted in this state, would have been
40 punishable as one or more of the offenses described in

1 ~~subparagraph (A) of paragraph (2) of subdivision (a)~~ *subdivision*
2 *(c)* of Section 290, is guilty of a misdemeanor.

3 (c) No person shall be charged and prosecuted for an offense
4 under this section unless the prosecutor has requested the other
5 jurisdiction to extradite the person and the other jurisdiction has
6 refused to do so.

7 (d) Any person who is convicted of any felony sex offense
8 ~~described in subparagraph (A) of paragraph (2) of subdivision (a)~~
9 *subdivision (c)* of Section 290, that is committed after fleeing to
10 this state under the circumstances described in subdivision (a) or
11 (b) of this section, shall, in addition and consecutive to the
12 punishment for that conviction, receive an additional term of two
13 years' imprisonment.

14 *SEC. 7. Section 290 of the Penal Code is repealed.*

15 ~~290. (a) (1) (A) Every person described in paragraph (2), for~~
16 ~~the rest of his or her life while residing in California, or while~~
17 ~~attending school or working in California, as described in~~
18 ~~subparagraph (G), shall be required to register with the chief of~~
19 ~~police of the city in which he or she is residing, or the sheriff of~~
20 ~~the county if he or she is residing in an unincorporated area or city~~
21 ~~that has no police department, and, additionally, with the chief of~~
22 ~~police of a campus of the University of California, the California~~
23 ~~State University, or community college if he or she is residing~~
24 ~~upon the campus or in any of its facilities, within five working~~
25 ~~days of coming into, or changing his or her residence within, any~~
26 ~~city, county, or city and county, or campus in which he or she~~
27 ~~temporarily resides.~~

28 ~~(B) If the person who is registering has more than one residence~~
29 ~~address at which he or she regularly resides, he or she shall register~~
30 ~~in accordance with subparagraph (A) in each of the jurisdictions~~
31 ~~in which he or she regularly resides, regardless of the number of~~
32 ~~days or nights spent there. If all of the addresses are within the~~
33 ~~same jurisdiction, the person shall provide the registering authority~~
34 ~~with all of the addresses where he or she regularly resides.~~

35 ~~(C) Every person described in paragraph (2), for the rest of his~~
36 ~~or her life while living as a transient in California shall be required~~
37 ~~to register, as follows:~~

38 ~~(i) A transient must register, or reregister if the person has~~
39 ~~previously registered, within five working days from release from~~
40 ~~incarceration, placement or commitment, or release on probation,~~

1 pursuant to paragraph (1) of subdivision (a), except that if the
2 person previously registered as a transient less than 30 days from
3 the date of his or her release from incarceration, he or she does
4 not need to reregister as a transient until his or her next required
5 30-day update of registration. If a transient is not physically present
6 in any one jurisdiction for five consecutive working days, he or
7 she must register in the jurisdiction in which he or she is physically
8 present on the fifth working day following release, pursuant to
9 paragraph (1) of subdivision (a). Beginning on or before the 30th
10 day following initial registration upon release, a transient must
11 reregister no less than once every 30 days thereafter. A transient
12 shall register with the chief of police of the city in which he or she
13 is physically present within that 30-day period, or the sheriff of
14 the county if he or she is physically present in an unincorporated
15 area or city that has no police department, and additionally, with
16 the chief of police of a campus of the University of California, the
17 California State University, or community college if he or she is
18 physically present upon the campus or in any of its facilities. A
19 transient must reregister no less than once every 30 days regardless
20 of the length of time he or she has been physically present in the
21 particular jurisdiction in which he or she reregisters. If a transient
22 fails to reregister within any 30-day period, he or she may be
23 prosecuted in any jurisdiction in which he or she is physically
24 present.

25 (ii) A transient who moves to a residence shall have five working
26 days within which to register at that address, in accordance with
27 subparagraph (A) of paragraph (1) of subdivision (a). A person
28 registered at a residence address in accordance with subparagraph
29 (A) of paragraph (1) of subdivision (a), who becomes transient
30 shall have five working days within which to reregister as a
31 transient in accordance with clause (i).

32 (iii) Beginning on his or her first birthday following registration,
33 a transient shall register annually, within five working days of his
34 or her birthday, to update his or her registration with the entities
35 described in clause (i). A transient shall register in whichever
36 jurisdiction he or she is physically present on that date. At the
37 30-day updates and the annual update, a transient shall provide
38 current information as required on the Department of Justice annual
39 update form, including the information described in subparagraphs

1 (A) to (C), inclusive, of paragraph (2) of subdivision (c), and the
2 information specified in clause (iv):

3 (iv) ~~A transient shall, upon registration and reregistration,~~
4 ~~provide current information as required on the Department of~~
5 ~~Justice registration forms, and shall also list the places where he~~
6 ~~or she sleeps, eats, works, frequents, and engages in leisure~~
7 ~~activities. If a transient changes or adds to the places listed on the~~
8 ~~form during the 30-day period, he or she does not need to report~~
9 ~~the new place or places until the next required reregistration.~~

10 (v) ~~Failure to comply with the requirement of reregistering every~~
11 ~~30 days following initial registration pursuant to clause (i) of this~~
12 ~~subparagraph shall be punished in accordance with paragraph (6)~~
13 ~~of subdivision (g). Failure to comply with any other requirement~~
14 ~~of this section shall be punished in accordance with either~~
15 ~~paragraph (1) or (2) of subdivision (g).~~

16 (vi) ~~A transient who moves out of state shall inform, in person,~~
17 ~~the chief of police in the city in which he or she is physically~~
18 ~~present, or the sheriff of the county if he or she is physically present~~
19 ~~in an unincorporated area or city that has no police department,~~
20 ~~within five working days, of his or her move out of state. The~~
21 ~~transient shall inform that registering agency of his or her planned~~
22 ~~destination, residence or transient location out of state, and any~~
23 ~~plans he or she has to return to California, if known. The law~~
24 ~~enforcement agency shall, within three days after receipt of this~~
25 ~~information, forward a copy of the change of location information~~
26 ~~to the Department of Justice. The department shall forward~~
27 ~~appropriate registration data to the law enforcement agency having~~
28 ~~local jurisdiction of the new place of residence or location.~~

29 (vii) ~~For purposes of this section, “transient” means a person~~
30 ~~who has no residence. “Residence” means one or more addresses~~
31 ~~at which a person regularly resides, regardless of the number of~~
32 ~~days or nights spent there, such as a shelter or structure that can~~
33 ~~be located by a street address, including, but not limited to, houses,~~
34 ~~apartment buildings, motels, hotels, homeless shelters, and~~
35 ~~recreational and other vehicles.~~

36 (viii) ~~The transient registrant’s duty to update his or her~~
37 ~~registration no less than every 30 days shall begin with his or her~~
38 ~~second transient update following the date this subdivision became~~
39 ~~effective.~~

~~(D) Beginning on his or her first birthday following registration or change of address, the person shall be required to register annually, within five working days of his or her birthday, to update his or her registration with the entities described in subparagraph (A). At the annual update, the person shall provide current information as required on the Department of Justice annual update form, including the information described in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (c).~~

~~(E) In addition, every person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, shall, after his or her release from custody, verify his or her address no less than once every 90 days and place of employment, including the name and address of the employer, in a manner established by the Department of Justice.~~

~~(F) No entity shall require a person to pay a fee to register or update his or her registration pursuant to this section. The registering agency shall submit registrations, including annual updates or changes of address, directly into the Department of Justice Violent Crime Information Network (VCIN). The registering agency shall give the registrant a copy of the completed Department of Justice form each time the person registers or reregisters, including at the annual update.~~

~~(G) Persons required to register in their state of residence who are out-of-state residents employed, or carrying on a vocation in California on a full-time or part-time basis, with or without compensation, for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, shall register in accordance with subparagraph (A). Persons described in paragraph (2) who are out-of-state residents enrolled in any educational institution in California, as defined in Section 22129 of the Education Code, on a full-time or part-time basis, shall register in accordance with subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed, carrying on a vocation, or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (c), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this~~

1 subparagraph shall become operative on November 25, 2000. The
2 terms “employed or carries on a vocation” include employment
3 whether or not financially compensated, volunteered, or performed
4 for government or educational benefit.

5 (2) The following persons shall be required to register pursuant
6 to paragraph (1):

7 (A) Any person who, since July 1, 1944, has been or is hereafter
8 convicted in any court in this state or in any federal or military
9 court of a violation of Section 187 committed in the perpetration;
10 or an attempt to perpetrate, rape or any act punishable under
11 Section 286, 288, 288a, or 289, Section 207 or 209 committed
12 with intent to violate Section 261, 286, 288, 288a, or 289, Section
13 220, except assault to commit mayhem, Section 243.4, paragraph
14 (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or
15 paragraph (1) of subdivision (a) of Section 262 involving the use
16 of force or violence for which the person is sentenced to the state
17 prison, Section 264.1, 266, or 266c, subdivision (b) of Section
18 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285,
19 286, 288, 288a, 288.3, 288.5, 288.7, or 289, Section 311.1,
20 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,
21 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of
22 Section 653f, subdivision 1 or 2 of Section 314, any offense
23 involving lewd or lascivious conduct under Section 272, or any
24 felony violation of Section 288.2; or any statutory predecessor that
25 includes all elements of one of the above-mentioned offenses; or
26 any person who since that date has been or is hereafter convicted
27 of the attempt or conspiracy to commit any of the above-mentioned
28 offenses.

29 (B) Any person who, since July 1, 1944, has been or hereafter
30 is released, discharged, or paroled from a penal institution where
31 he or she was confined because of the commission or attempted
32 commission of one of the offenses described in subparagraph (A):

33 (C) Any person who, since July 1, 1944, has been or hereafter
34 is determined to be a mentally disordered sex offender under
35 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
36 of Division 6 of the Welfare and Institutions Code or any person
37 who has been found guilty in the guilt phase of a trial for an offense
38 for which registration is required by this section but who has been
39 found not guilty by reason of insanity in the sanity phase of the
40 trial.

1 ~~(D) (i) Any person who, since July 1, 1944, has been, or is~~
2 ~~hereafter convicted in any other court, including any state, federal,~~
3 ~~or military court, of any offense that, if committed or attempted~~
4 ~~in this state, would have been punishable as one or more of the~~
5 ~~offenses described in subparagraph (A), including offenses in~~
6 ~~which the person was a principal, as defined in Section 31.~~

7 ~~(ii) Any person ordered by any other court, including any state,~~
8 ~~federal, or military court, to register as a sex offender for any~~
9 ~~offense, if the court found at the time of conviction or sentencing~~
10 ~~that the person committed the offense as a result of sexual~~
11 ~~compulsion or for purposes of sexual gratification.~~

12 ~~(iii) (I) Except as provided in subclause (H), any person who~~
13 ~~would be required to register while residing in the state of~~
14 ~~conviction for a sex offense committed in that state.~~

15 ~~(II) Notwithstanding subclause (I), a person convicted in another~~
16 ~~state of an offense similar to one of the following offenses who is~~
17 ~~required to register in the state of conviction shall not be required~~
18 ~~to register in California unless the out-of-state offense contains all~~
19 ~~of the elements of a registerable California offense described in~~
20 ~~subparagraph (A):~~

21 ~~(aa) Indecent exposure, pursuant to Section 314.~~

22 ~~(ab) Unlawful sexual intercourse, pursuant to Section 261.5.~~

23 ~~(ac) Incest, pursuant to Section 285.~~

24 ~~(ad) Sodomy, pursuant to Section 286, or oral copulation,~~
25 ~~pursuant to Section 288a, provided that the offender notifies the~~
26 ~~Department of Justice that the sodomy or oral copulation conviction~~
27 ~~was for conduct between consenting adults, as described in~~
28 ~~subparagraph (G) and the department is able, upon the exercise of~~
29 ~~reasonable diligence, to verify that fact.~~

30 ~~(ae) Pimping, pursuant to Section 266h, or pandering, pursuant~~
31 ~~to Section 266i.~~

32 ~~(E) Any person ordered by any court to register pursuant to this~~
33 ~~section for any offense not included specifically in this section if~~
34 ~~the court finds at the time of conviction or sentencing that the~~
35 ~~person committed the offense as a result of sexual compulsion or~~
36 ~~for purposes of sexual gratification. The court shall state on the~~
37 ~~record the reasons for its findings and the reasons for requiring~~
38 ~~registration.~~

39 ~~(F) Any person required to register pursuant to any provision~~
40 ~~of this section, regardless of whether the person's conviction has~~

1 ~~been dismissed pursuant to Section 1203.4, unless the person~~
2 ~~obtains a certificate of rehabilitation and is entitled to relief from~~
3 ~~registration pursuant to Section 290.5.~~

4 (G) (i) ~~Notwithstanding any other subdivision, a person who~~
5 ~~was convicted before January 1, 1976, under subdivision (a) of~~
6 ~~Section 286, or Section 288a, shall not be required to register~~
7 ~~pursuant to this section for that conviction if the conviction was~~
8 ~~for conduct between consenting adults that was decriminalized by~~
9 ~~Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes~~
10 ~~of 1976. The Department of Justice shall remove that person from~~
11 ~~the Sex Offender Registry, and the person is discharged from his~~
12 ~~or her duty to register pursuant to the following procedure:~~

13 (I) ~~The person submits to the Department of Justice official~~
14 ~~documentary evidence, including court records or police reports,~~
15 ~~that demonstrate that the person's conviction pursuant to either of~~
16 ~~those sections was for conduct between consenting adults that was~~
17 ~~decriminalized; or~~

18 (II) ~~The person submits to the department a declaration stating~~
19 ~~that the person's conviction pursuant to either of those sections~~
20 ~~was for consensual conduct between adults that has been~~
21 ~~decriminalized. The declaration shall be confidential and not a~~
22 ~~public record, and shall include the person's name, address,~~
23 ~~telephone number, date of birth, and a summary of the~~
24 ~~circumstances leading to the conviction, including the date of the~~
25 ~~conviction and county of the occurrence.~~

26 (III) ~~The department shall determine whether the person's~~
27 ~~conviction was for conduct between consensual adults that has~~
28 ~~been decriminalized. If the conviction was for consensual conduct~~
29 ~~between adults that has been decriminalized, and the person has~~
30 ~~no other offenses for which he or she is required to register~~
31 ~~pursuant to this section, the department shall, within 60 days of~~
32 ~~receipt of those documents, notify the person that he or she is~~
33 ~~relieved of the duty to register, and shall notify the local law~~
34 ~~enforcement agency with which the person is registered that he or~~
35 ~~she has been relieved of the duty to register. The local law~~
36 ~~enforcement agency shall remove the person's registration from~~
37 ~~its files within 30 days of receipt of notification. If the documentary~~
38 ~~or other evidence submitted is insufficient to establish the person's~~
39 ~~claim, the department shall, within 60 days of receipt of those~~
40 ~~documents, notify the person that his or her claim cannot be~~

1 established, and that the person shall continue to register pursuant
2 to this section. The department shall provide, upon the person's
3 request, any information relied upon by the department in making
4 its determination that the person shall continue to register pursuant
5 to this section. Any person whose claim has been denied by the
6 department pursuant to this clause may petition the court to appeal
7 the department's denial of the person's claim.

8 (ii) On or before July 1, 1998, the department shall make a report
9 to the Legislature concerning the status of persons who may come
10 under the provisions of this subparagraph, including the number
11 of persons who were convicted before January 1, 1976, under
12 subdivision (a) of Section 286 or Section 288a and are required to
13 register under this section, the average age of these persons, the
14 number of these persons who have any subsequent convictions for
15 a registerable sex offense, and the number of these persons who
16 have sought successfully or unsuccessfully to be relieved of their
17 duty to register under this section.

18 (b) (1) Any person who is released, discharged, or paroled from
19 a jail, state or federal prison, school, road camp, or other institution
20 where he or she was confined because of the commission or
21 attempted commission of one of the offenses specified in
22 subdivision (a) or is released from a state hospital to which he or
23 she was committed as a mentally disordered sex offender under
24 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
25 of Division 6 of the Welfare and Institutions Code, shall, prior to
26 discharge, parole, or release, be informed of his or her duty to
27 register under this section by the official in charge of the place of
28 confinement or hospital, and the official shall require the person
29 to read and sign any form that may be required by the Department
30 of Justice, stating that the duty of the person to register under this
31 section has been explained to the person. The official in charge of
32 the place of confinement or hospital shall obtain the address where
33 the person expects to reside upon his or her discharge, parole, or
34 release and shall report the address to the Department of Justice.
35 The official shall at the same time forward a current photograph
36 of the person to the Department of Justice.

37 (2) The official in charge of the place of confinement or hospital
38 shall give one copy of the form to the person and shall send one
39 copy to the Department of Justice and one copy to the appropriate
40 law enforcement agency or agencies having jurisdiction over the

1 place the person expects to reside upon discharge, parole, or
2 release. If the conviction that makes the person subject to this
3 section is a felony conviction, the official in charge shall, not later
4 than 45 days prior to the scheduled release of the person, send one
5 copy to the appropriate law enforcement agency or agencies having
6 local jurisdiction where the person expects to reside upon
7 discharge, parole, or release; one copy to the prosecuting agency
8 that prosecuted the person; and one copy to the Department of
9 Justice. The official in charge of the place of confinement or
10 hospital shall retain one copy.

11 (e) (1) Any person who is convicted in this state of the
12 commission or attempted commission of any of the offenses
13 specified in subdivision (a) and who is released on probation, shall,
14 prior to release or discharge, be informed of the duty to register
15 under this section by the probation department, and a probation
16 officer shall require the person to read and sign any form that may
17 be required by the Department of Justice, stating that the duty of
18 the person to register under this section has been explained to him
19 or her. The probation officer shall obtain the address where the
20 person expects to reside upon release or discharge and shall report
21 within three days the address to the Department of Justice. The
22 probation officer shall give one copy of the form to the person;
23 send one copy to the Department of Justice, and forward one copy
24 to the appropriate law enforcement agency or agencies having
25 local jurisdiction where the person expects to reside upon his or
26 her discharge, parole, or release.

27 (2) Any person who is convicted in this state of the commission
28 or attempted commission of any of the offenses specified in
29 subdivision (a) and who is granted conditional release without
30 supervised probation, or discharged upon payment of a fine, shall,
31 prior to release or discharge, be informed of the duty to register
32 under this section in open court by the court in which the person
33 has been convicted, and the court shall require the person to read
34 and sign any form that may be required by the Department of
35 Justice, stating that the duty of the person to register under this
36 section has been explained to him or her. If the court finds that it
37 is in the interest of the efficiency of the court, the court may assign
38 the bailiff to require the person to read and sign forms under this
39 section. The court shall obtain the address where the person expects
40 to reside upon release or discharge and shall report within three

1 days the address to the Department of Justice. The court shall give
2 one copy of the form to the person, send one copy to the
3 Department of Justice, and forward one copy to the appropriate
4 law enforcement agency or agencies having local jurisdiction where
5 the person expects to reside upon his or her discharge, parole, or
6 release.

7 (d) (1) Any person who, on or after January 1, 1986, is
8 discharged or paroled from the Department of Corrections and
9 Rehabilitation to the custody of which he or she was committed
10 after having been adjudicated a ward of the juvenile court pursuant
11 to Section 602 of the Welfare and Institutions Code because of the
12 commission or attempted commission of any offense described in
13 paragraph (3) shall be subject to registration under the procedures
14 of this section.

15 (2) Any person who is discharged or paroled from a facility in
16 another state that is equivalent to the Division of Juvenile Justice,
17 to the custody of which he or she was committed because of an
18 offense which, if committed or attempted in this state, would have
19 been punishable as one or more of the offenses described in
20 paragraph (3), shall be subject to registration under the procedures
21 of this section.

22 (3) Any person described in this subdivision who committed
23 an offense in violation of any of the following provisions shall be
24 required to register pursuant to this section:

25 (A) Assault with intent to commit rape, sodomy, oral copulation,
26 or any violation of Section 264.1, 288, or 289 under Section 220.

27 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of
28 subdivision (a) of Section 261, Section 264.1, 266c, or 267,
29 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,
30 Section 286, Section 288 or 288.5, paragraph (1) of subdivision
31 (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)
32 of Section 289, or Section 647.6.

33 (C) A violation of Section 207 or 209 committed with the intent
34 to violate Section 261, 286, 288, 288a, or 289.

35 (4) Prior to discharge or parole from the Department of
36 Corrections and Rehabilitation, any person who is subject to
37 registration under this subdivision shall be informed of the duty
38 to register under the procedures set forth in this section. Department
39 officials shall transmit the required forms and information to the
40 Department of Justice.

1 ~~(5) All records specifically relating to the registration in the~~
2 ~~custody of the Department of Justice, law enforcement agencies,~~
3 ~~and other agencies or public officials shall be destroyed when the~~
4 ~~person who is required to register has his or her records sealed~~
5 ~~under the procedures set forth in Section 781 of the Welfare and~~
6 ~~Institutions Code. This subdivision shall not be construed as~~
7 ~~requiring the destruction of other criminal offender or juvenile~~
8 ~~records relating to the case that are maintained by the Department~~
9 ~~of Justice, law enforcement agencies, the juvenile court, or other~~
10 ~~agencies and public officials unless ordered by a court under~~
11 ~~Section 781 of the Welfare and Institutions Code.~~

12 ~~(e) (1) On or after January 1, 1998, upon incarceration,~~
13 ~~placement, or commitment, or prior to release on probation, any~~
14 ~~person who is required to register under this section shall~~
15 ~~preregister. The preregistering official shall be the admitting officer~~
16 ~~at the place of incarceration, placement, or commitment, or the~~
17 ~~probation officer if the person is to be released on probation. The~~
18 ~~preregistration shall consist of all of the following:~~

19 ~~(A) A preregistration statement in writing, signed by the person,~~
20 ~~giving information that shall be required by the Department of~~
21 ~~Justice.~~

22 ~~(B) The fingerprints and a current photograph of the person.~~

23 ~~(C) Any person who is preregistered pursuant to this subdivision~~
24 ~~is required to be preregistered only once.~~

25 ~~(2) A person described in paragraph (2) of subdivision (a) shall~~
26 ~~register, or reregister if the person has previously registered, upon~~
27 ~~release from incarceration, placement, commitment, or release on~~
28 ~~probation pursuant to paragraph (1) of subdivision (a). This~~
29 ~~paragraph shall not apply to a person who is incarcerated for less~~
30 ~~than 30 days if he or she has registered as required by paragraph~~
31 ~~(1) of subdivision (a), he or she returns after incarceration to the~~
32 ~~last registered address, and the annual update of registration that~~
33 ~~is required to occur within five working days of his or her birthday,~~
34 ~~pursuant to subparagraph (D) of paragraph (1) of subdivision (a),~~
35 ~~did not fall within that incarceration period. The registration shall~~
36 ~~consist of all of the following:~~

37 ~~(A) A statement in writing signed by the person, giving~~
38 ~~information as shall be required by the Department of Justice and~~
39 ~~giving the name and address of the person's employer, and the~~

1 address of the person's place of employment if that is different
2 from the employer's main address.

3 (B) The fingerprints and a current photograph of the person
4 taken by the registering official.

5 (C) The license plate number of any vehicle owned by, regularly
6 driven by, or registered in the name of the person.

7 (D) Notice to the person that, in addition to the requirements of
8 paragraph (4), he or she may have a duty to register in any other
9 state where he or she may relocate.

10 (E) Copies of adequate proof of residence, which shall be limited
11 to a California driver's license, California identification card, recent
12 rent or utility receipt, printed personalized checks or other recent
13 banking documents showing that person's name and address, or
14 any other information that the registering official believes is
15 reliable. If the person has no residence and no reasonable
16 expectation of obtaining a residence in the foreseeable future, the
17 person shall so advise the registering official and shall sign a
18 statement provided by the registering official stating that fact.
19 Upon presentation of proof of residence to the registering official
20 or a signed statement that the person has no residence, the person
21 shall be allowed to register. If the person claims that he or she has
22 a residence but does not have any proof of residence, he or she
23 shall be allowed to register but shall furnish proof of residence
24 within 30 days of the date he or she is allowed to register.

25 (3) Within three days thereafter, the preregistering official or
26 the registering law enforcement agency or agencies shall forward
27 the statement, fingerprints, photograph, and vehicle license plate
28 number, if any, to the Department of Justice.

29 (f) (1) (A) Any person who was last registered at a residence
30 address pursuant to this section who changes his or her residence
31 address, whether within the jurisdiction in which he or she is
32 currently registered or to a new jurisdiction inside or outside the
33 state, shall, in person, within five working days of the move, inform
34 the law enforcement agency or agencies with which he or she last
35 registered of the move, the new address or transient location, if
36 known, and any plans he or she has to return to California.

37 (B) If the person does not know the new residence address or
38 location at the time of the move, the registrant shall, in person,
39 within five working days of the move, inform the last registering
40 agency or agencies that he or she is moving. The person shall later

1 notify the last registering agency or agencies, in writing, sent by
2 certified or registered mail, of the new address or location within
3 five working days of moving into the new residence address or
4 location, whether temporary or permanent.

5 (C) The law enforcement agency or agencies shall, within three
6 working days after receipt of this information, forward a copy of
7 the change of address information to the Department of Justice.
8 The Department of Justice shall forward appropriate registration
9 data to the law enforcement agency or agencies having local
10 jurisdiction of the new place of residence.

11 (2) If the person's new address is in a Department of Corrections
12 and Rehabilitation facility or state mental institution, an official
13 of the place of incarceration, placement, or commitment shall,
14 within 90 days of receipt of the person, forward the registrant's
15 change of address information to the Department of Justice. The
16 agency need not provide a physical address for the registrant but
17 shall indicate that he or she is serving a period of incarceration or
18 commitment in a facility under the agency's jurisdiction. This
19 paragraph shall apply to persons received in a department facility
20 or state mental institution on or after January 1, 1999. The
21 Department of Justice shall forward the change of address
22 information to the agency with which the person last registered.

23 (3) If any person who is required to register pursuant to this
24 section changes his or her name, the person shall inform, in person,
25 the law enforcement agency or agencies with which he or she is
26 currently registered within five working days. The law enforcement
27 agency or agencies shall forward a copy of this information to the
28 Department of Justice within three working days of its receipt.

29 (g) (1) Any person who is required to register under this section
30 based on a misdemeanor conviction or juvenile adjudication who
31 willfully violates any requirement of this section is guilty of a
32 misdemeanor punishable by imprisonment in a county jail not
33 exceeding one year.

34 (2) Except as provided in paragraphs (5), (7), and (9), any person
35 who is required to register under this section based on a felony
36 conviction or juvenile adjudication who willfully violates any
37 requirement of this section or who has a prior conviction or juvenile
38 adjudication for the offense of failing to register under this section
39 and who subsequently and willfully violates any requirement of
40 this section is guilty of a felony and shall be punished by

1 imprisonment in the state prison for 16 months, or two or three
2 years.

3 If probation is granted or if the imposition or execution of
4 sentence is suspended, it shall be a condition of the probation or
5 suspension that the person serve at least 90 days in a county jail.
6 The penalty described in this paragraph shall apply whether or not
7 the person has been released on parole or has been discharged from
8 parole.

9 (3) Any person determined to be a mentally disordered sex
10 offender or who has been found guilty in the guilt phase of trial
11 for an offense for which registration is required under this section,
12 but who has been found not guilty by reason of insanity in the
13 sanity phase of the trial, or who has had a petition sustained in a
14 juvenile adjudication for an offense for which registration is
15 required under this section pursuant to subdivision (d), but who
16 has been found not guilty by reason of insanity, who willfully
17 violates any requirement of this section is guilty of a misdemeanor
18 and shall be punished by imprisonment in a county jail not
19 exceeding one year. For any second or subsequent willful violation
20 of any requirement of this section, the person is guilty of a felony
21 and shall be punished by imprisonment in the state prison for 16
22 months, or two or three years.

23 (4) If, after discharge from parole, the person is convicted of a
24 felony or suffers a juvenile adjudication as specified in this
25 subdivision, he or she shall be required to complete parole of at
26 least one year, in addition to any other punishment imposed under
27 this subdivision. A person convicted of a felony as specified in
28 this subdivision may be granted probation only in the unusual case
29 where the interests of justice would best be served. When probation
30 is granted under this paragraph, the court shall specify on the record
31 and shall enter into the minutes the circumstances indicating that
32 the interests of justice would best be served by the disposition.

33 (5) Any person who has ever been adjudicated a sexually violent
34 predator, as defined in Section 6600 of the Welfare and Institutions
35 Code, and who fails to verify his or her registration every 90 days
36 as required pursuant to subparagraph (E) of paragraph (1) of
37 subdivision (a), shall be punished by imprisonment in the state
38 prison, or in a county jail not exceeding one year.

39 (6) Except as otherwise provided in paragraph (5), any person
40 who is required to register or reregister pursuant to clause (i) of

1 subparagraph (C) of paragraph (1) of subdivision (a) and willfully
2 fails to comply with the requirement that he or she reregister no
3 less than every 30 days is guilty of a misdemeanor and shall be
4 punished by imprisonment in a county jail at least 30 days, but not
5 exceeding six months. A person who willfully fails to comply with
6 the requirement that he or she reregister no less than every 30 days
7 shall not be charged with this violation more often than once for
8 a failure to register in any period of 90 days. Any person who
9 willfully commits a third or subsequent violation of the
10 requirements of subparagraph (C) of paragraph (1) of subdivision
11 (a) that he or she reregister no less than every 30 days shall be
12 punished in accordance with either paragraph (1) or (2) of this
13 subdivision.

14 (7) Any person who fails to provide proof of residence as
15 required by subparagraph (E) of paragraph (2) of subdivision (c);
16 regardless of the offense upon which the duty to register is based;
17 is guilty of a misdemeanor punishable by imprisonment in a county
18 jail not exceeding six months.

19 (8) Any person who is required to register under this section
20 who willfully violates any requirement of this section is guilty of
21 a continuing offense as to each requirement he or she violated.

22 (9) In addition to any other penalty imposed under this
23 subdivision, the failure to provide information required on
24 registration and reregistration forms of the Department of Justice,
25 or the provision of false information, is a crime punishable by
26 imprisonment in a county jail for a period not exceeding one year.

27 (h) Whenever any person is released on parole or probation and
28 is required to register under this section but fails to do so within
29 the time prescribed, the parole authority or the court, as the case
30 may be, shall order the parole or probation of the person revoked.
31 For purposes of this subdivision, "parole authority" has the same
32 meaning as described in Section 3000.

33 (i) Except as otherwise provided by law, the statements,
34 photographs, and fingerprints required by this section shall not be
35 open to inspection by the public or by any person other than a
36 regularly employed peace officer or other law enforcement officer.

37 (j) In any case in which a person who would be required to
38 register pursuant to this section for a felony conviction is to be
39 temporarily sent outside the institution where he or she is confined
40 on any assignment within a city or county including firefighting,

1 disaster control, or of whatever nature the assignment may be, the
2 local law enforcement agency having jurisdiction over the place
3 or places where the assignment shall occur shall be notified within
4 a reasonable time prior to removal from the institution. This
5 subdivision shall not apply to any person who is temporarily
6 released under guard from the institution where he or she is
7 confined.

8 (k) ~~As used in this section, “mentally disordered sex offender”~~
9 ~~includes any person who has been determined to be a sexual~~
10 ~~psychopath or a mentally disordered sex offender under any~~
11 ~~provision which, on or before January 1, 1976, was contained in~~
12 ~~Division 6 (commencing with Section 6000) of the Welfare and~~
13 ~~Institutions Code.~~

14 (l) (1) ~~Every person who, prior to January 1, 1997, is required~~
15 ~~to register under this section, shall be notified whenever he or she~~
16 ~~next reregisters of the reduction of the registration period from 14~~
17 ~~to 5 working days. This notice shall be provided in writing by the~~
18 ~~registering agency or agencies. Failure to receive this notification~~
19 ~~shall be a defense against the penalties prescribed by subdivision~~
20 ~~(g) if the person did register within 14 days.~~

21 (2) ~~Every person who, as a sexually violent predator, as defined~~
22 ~~in Section 6600 of the Welfare and Institutions Code, is required~~
23 ~~to verify his or her registration every 90 days, shall be notified~~
24 ~~wherever he or she next registers of his or her increased registration~~
25 ~~obligations. This notice shall be provided in writing by the~~
26 ~~registering agency or agencies. Failure to receive this notice shall~~
27 ~~be a defense against the penalties prescribed by paragraph (5) of~~
28 ~~subdivision (g).~~

29 (m) ~~The registration provisions of this section are applicable to~~
30 ~~every person described in this section, without regard to when his~~
31 ~~or her crime or crimes were committed or his or her duty to register~~
32 ~~pursuant to this section arose, and to every offense described in~~
33 ~~this section, regardless of when it was committed.~~

34 (n) ~~On or before June 1, 2010, the Department of Justice shall~~
35 ~~renovate the VCIN to do the following:~~

36 (1) ~~Correct all software deficiencies affecting data integrity and~~
37 ~~include designated data fields for all mandated sex offender data.~~

38 (2) ~~Consolidate and simplify program logic, thereby increasing~~
39 ~~system performance and reducing system maintenance costs.~~

1 ~~(3) Provide all necessary data storage, processing, and search~~
2 ~~capabilities.~~

3 ~~(4) Provide law enforcement agencies with full Internet access~~
4 ~~to all sex offender data and photos.~~

5 ~~(5) Incorporate a flexible design structure to readily meet future~~
6 ~~demands for enhanced system functionality, including public~~
7 ~~Internet access to sex offender information pursuant to Section~~
8 ~~290.46.~~

9 *SEC. 8. Section 290 is added to the Penal Code, to read:*

10 *290. (a) Sections 290 to 290.023, inclusive, shall be known*
11 *and may be cited as the Sex Offender Registration Act. All*
12 *references to "the Act" in those sections are to the Sex Offender*
13 *Registration Act.*

14 *(b) Every person described in subdivision (c), for the rest of his*
15 *or her life while residing in California, or while attending school*
16 *or working in California, as described in Sections 290.002 and*
17 *290.01, shall be required to register with the chief of police of the*
18 *city in which he or she is residing, or the sheriff of the county if*
19 *he or she is residing in an unincorporated area or city that has no*
20 *police department, and, additionally, with the chief of police of a*
21 *campus of the University of California, the California State*
22 *University, or community college if he or she is residing upon the*
23 *campus or in any of its facilities, within five working days of*
24 *coming into, or changing his or her residence within, any city,*
25 *county, or city and county, or campus in which he or she*
26 *temporarily resides, and shall be required to register thereafter*
27 *in accordance with the Act.*

28 *(c) The following persons shall be required to register:*

29 *Any person who, since July 1, 1944, has been or is hereafter*
30 *convicted in any court in this state or in any federal or military*
31 *court of a violation of Section 187 committed in the perpetration,*
32 *or an attempt to perpetrate, rape or any act punishable under*
33 *Section 286, 288, 288a, or 289, Section 207 or 209 committed with*
34 *intent to violate Section 261, 286, 288, 288a, or 289, Section 220,*
35 *except assault to commit mayhem, Section 243.4, paragraph (1),*
36 *(2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph*
37 *(1) of subdivision (a) of Section 262 involving the use of force or*
38 *violence for which the person is sentenced to the state prison,*
39 *Section 264.1, 266, or 266c, subdivision (b) of Section 266h,*
40 *subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286,*

1 288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision
2 (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10,
3 311.11, or 647.6, former Section 647a, subdivision (c) of Section
4 653f, subdivision 1 or 2 of Section 314, any offense involving lewd
5 or lascivious conduct under Section 272, or any felony violation
6 of Section 288.2; any statutory predecessor that includes all
7 elements of one of the above-mentioned offenses; or any person
8 who since that date has been or is hereafter convicted of the
9 attempt or conspiracy to commit any of the above-mentioned
10 offenses.

11 SEC. 9. Section 290.001 is added to the Penal Code, to read:

12 290.001. Every person who has ever been adjudicated a
13 sexually violent predator, as defined in Section 6600 of the Welfare
14 and Institutions Code, shall register in accordance with the Act.

15 SEC. 10. Section 290.002 is added to the Penal Code, to read:

16 290.002. Persons required to register in their state of residence
17 who are out-of-state residents employed, or carrying on a vocation
18 in California on a full-time or part-time basis, with or without
19 compensation, for more than 14 days, or for an aggregate period
20 exceeding 30 days in a calendar year, shall register in accordance
21 with the Act. Persons described in the Act who are out-of-state
22 residents enrolled in any educational institution in California, as
23 defined in Section 22129 of the Education Code, on a full-time or
24 part-time basis, shall register in accordance with the Act. The
25 place where the out-of-state resident is located, for purposes of
26 registration, shall be the place where the person is employed,
27 carrying on a vocation, or attending school. The out-of-state
28 resident subject to this section shall, in addition to the information
29 required pursuant to Section 290.015, provide the registering
30 authority with the name of his or her place of employment or the
31 name of the school attended in California, and his or her address
32 or location in his or her state of residence. The registration
33 requirement for persons subject to this section shall become
34 operative on November 25, 2000. The terms "employed or carries
35 on a vocation" include employment whether or not financially
36 compensated, volunteered, or performed for government or
37 educational benefit.

38 SEC. 11. Section 290.003 is added to the Penal Code, to read:

39 290.003. Any person who, since July 1, 1944, has been or
40 hereafter is released, discharged, or paroled from a penal

1 institution where he or she was confined because of the commission
2 or attempted commission of one of the offenses described in
3 subdivision (c) of Section 290, shall register in accordance with
4 the Act.

5 SEC. 12. Section 290.004 is added to the Penal Code, to read:

6 290.004. Any person who, since July 1, 1944, has been or
7 hereafter is determined to be a mentally disordered sex offender
8 under Article 1 (commencing with Section 6300) of Chapter 2 of
9 Part 2 of Division 6 of the Welfare and Institutions Code, or any
10 person who has been found guilty in the guilt phase of a trial for
11 an offense for which registration is required by this section but
12 who has been found not guilty by reason of insanity in the sanity
13 phase of the trial shall register in accordance with the Act.

14 SEC. 13. Section 290.005 is added to the Penal Code, to read:

15 290.005. The following persons shall register in accordance
16 with the Act:

17 (a) Any person who, since July 1, 1944, has been, or is hereafter
18 convicted in any other court, including any state, federal, or
19 military court, of any offense that, if committed or attempted in
20 this state, would have been punishable as one or more of the
21 offenses described in subdivision (c) of Section 290, including
22 offenses in which the person was a principal, as defined in Section
23 31.

24 (b) Any person ordered by any other court, including any state,
25 federal, or military court, to register as a sex offender for any
26 offense, if the court found at the time of conviction or sentencing
27 that the person committed the offense as a result of sexual
28 compulsion or for purposes of sexual gratification.

29 (c) Except as provided in subdivision (d), any person who would
30 be required to register while residing in the state of conviction for
31 a sex offense committed in that state.

32 (d) Notwithstanding subdivision (c), a person convicted in
33 another state of an offense similar to one of the following offenses
34 who is required to register in the state of conviction shall not be
35 required to register in California unless the out-of-state offense
36 contains all of the elements of a registerable California offense
37 described in subdivision (c) of Section 290:

38 (1) Indecent exposure, pursuant to Section 314.

39 (2) Unlawful sexual intercourse, pursuant to Section 261.5.

40 (3) Incest, pursuant to Section 285.

1 (4) Sodomy, pursuant to Section 286, or oral copulation,
2 pursuant to Section 288a, provided that the offender notifies the
3 Department of Justice that the sodomy or oral copulation
4 conviction was for conduct between consenting adults, as described
5 in Section 290.019, and the department is able, upon the exercise
6 of reasonable diligence, to verify that fact.

7 (5) Pimping, pursuant to Section 266h, or pandering, pursuant
8 to Section 266i.

9 SEC. 14. Section 290.006 is added to the Penal Code, to read:

10 290.006. Any person ordered by any court to register pursuant
11 to the Act for any offense not included specifically in subdivision
12 (c) of Section 290, shall so register, if the court finds at the time
13 of conviction or sentencing that the person committed the offense
14 as a result of sexual compulsion or for purposes of sexual
15 gratification. The court shall state on the record the reasons for
16 its findings and the reasons for requiring registration.

17 SEC. 15. Section 290.007 is added to the Penal Code, to read:

18 290.007. Any person required to register pursuant to any
19 provision of the Act shall register in accordance with the Act,
20 regardless of whether the person's conviction has been dismissed
21 pursuant to Section 1203.4, unless the person obtains a certificate
22 of rehabilitation and is entitled to relief from registration pursuant
23 to Section 290.5.

24 SEC. 16. Section 290.008 is added to the Penal Code, to read:

25 290.008. (a) Any person who, on or after January 1, 1986, is
26 discharged or paroled from the Department of Corrections and
27 Rehabilitation to the custody of which he or she was committed
28 after having been adjudicated a ward of the juvenile court pursuant
29 to Section 602 of the Welfare and Institutions Code because of the
30 commission or attempted commission of any offense described in
31 subdivision (c) shall register in accordance with the Act.

32 (b) Any person who is discharged or paroled from a facility in
33 another state that is equivalent to the Division of Juvenile Justice,
34 to the custody of which he or she was committed because of an
35 offense which, if committed or attempted in this state, would have
36 been punishable as one or more of the offenses described in
37 subdivision (c) shall register in accordance with the Act.

38 (c) Any person described in this section who committed an
39 offense in violation of any of the following provisions shall be
40 required to register pursuant to the Act:

1 *(1) Assault with intent to commit rape, sodomy, oral copulation,*
2 *or any violation of Section 264.1, 288, or 289 under Section 220.*

3 *(2) Any offense defined in paragraph (1), (2), (3), (4), or (6) of*
4 *subdivision (a) of Section 261, Section 264.1, 266c, or 267,*
5 *paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,*
6 *Section 286, Section 288 or 288.5, paragraph (1) of subdivision*
7 *(b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)*
8 *of Section 289, or Section 647.6.*

9 *(3) A violation of Section 207 or 209 committed with the intent*
10 *to violate Section 261, 286, 288, 288a, or 289.*

11 *(d) Prior to discharge or parole from the Department of*
12 *Corrections and Rehabilitation, any person who is subject to*
13 *registration under this section shall be informed of the duty to*
14 *register under the procedures set forth in the Act. Department*
15 *officials shall transmit the required forms and information to the*
16 *Department of Justice.*

17 *(e) All records specifically relating to the registration in the*
18 *custody of the Department of Justice, law enforcement agencies,*
19 *and other agencies or public officials shall be destroyed when the*
20 *person who is required to register has his or her records sealed*
21 *under the procedures set forth in Section 781 of the Welfare and*
22 *Institutions Code. This section shall not be construed as requiring*
23 *the destruction of other criminal offender or juvenile records*
24 *relating to the case that are maintained by the Department of*
25 *Justice, law enforcement agencies, the juvenile court, or other*
26 *agencies and public officials unless ordered by a court under*
27 *Section 781 of the Welfare and Institutions Code.*

28 *SEC. 17. Section 290.009 is added to the Penal Code, to read:*

29 *290.009. Any person required to register under the Act who is*
30 *enrolled as a student or is an employee or carries on a vocation,*
31 *with or without compensation, at an institution of higher learning*
32 *in this state, shall register pursuant to the provisions of the Act.*

33 *SEC. 18. Section 290.010 is added to the Penal Code, to read:*

34 *290.010. If the person who is registering has more than one*
35 *residence address at which he or she regularly resides, he or she*
36 *shall register in accordance with the Act in each of the jurisdictions*
37 *in which he or she regularly resides, regardless of the number of*
38 *days or nights spent there. If all of the addresses are within the*
39 *same jurisdiction, the person shall provide the registering authority*
40 *with all of the addresses where he or she regularly resides.*

1 *SEC. 19. Section 290.011 is added to the Penal Code, to read:*

2 *290.011. Every person who is required to register pursuant to*
3 *the Act who is living as a transient shall be required to register*
4 *for the rest of his or her life as follows:*

5 *(a) He or she shall register, or reregister if the person has*
6 *previously registered, within five working days from release from*
7 *incarceration, placement or commitment, or release on probation,*
8 *pursuant to subdivision (b) of Section 290, except that if the person*
9 *previously registered as a transient less than 30 days from the date*
10 *of his or her release from incarceration, he or she does not need*
11 *to reregister as a transient until his or her next required 30-day*
12 *update of registration. If a transient is not physically present in*
13 *any one jurisdiction for five consecutive working days, he or she*
14 *shall register in the jurisdiction in which he or she is physically*
15 *present on the fifth working day following release, pursuant to*
16 *subdivision (b) of Section 290. Beginning on or before the 30th*
17 *day following initial registration upon release, a transient shall*
18 *reregister no less than once every 30 days thereafter. A transient*
19 *shall register with the chief of police of the city in which he or she*
20 *is physically present within that 30-day period, or the sheriff of*
21 *the county if he or she is physically present in an unincorporated*
22 *area or city that has no police department, and additionally, with*
23 *the chief of police of a campus of the University of California, the*
24 *California State University, or community college if he or she is*
25 *physically present upon the campus or in any of its facilities. A*
26 *transient shall reregister no less than once every 30 days*
27 *regardless of the length of time he or she has been physically*
28 *present in the particular jurisdiction in which he or she reregisters.*
29 *If a transient fails to reregister within any 30-day period, he or*
30 *she may be prosecuted in any jurisdiction in which he or she is*
31 *physically present.*

32 *(b) A transient who moves to a residence shall have five working*
33 *days within which to register at that address, in accordance with*
34 *subdivision (b) of Section 290. A person registered at a residence*
35 *address in accordance with that provision who becomes transient*
36 *shall have five working days within which to reregister as a*
37 *transient in accordance with subdivision (a).*

38 *(c) Beginning on his or her first birthday following registration,*
39 *a transient shall register annually, within five working days of his*
40 *or her birthday, to update his or her registration with the entities*

1 *described in subdivision (a). A transient shall register in whichever*
2 *jurisdiction he or she is physically present on that date. At the*
3 *30-day updates and the annual update, a transient shall provide*
4 *current information as required on the Department of Justice*
5 *annual update form, including the information described in*
6 *paragraphs (1) to (3), inclusive of subdivision (a) of Section*
7 *290.015, and the information specified in subdivision (d).*

8 *(d) A transient shall, upon registration and reregistration,*
9 *provide current information as required on the Department of*
10 *Justice registration forms, and shall also list the places where he*
11 *or she sleeps, eats, works, frequents, and engages in leisure*
12 *activities. If a transient changes or adds to the places listed on the*
13 *form during the 30-day period, he or she does not need to report*
14 *the new place or places until the next required reregistration.*

15 *(e) Failure to comply with the requirement of reregistering*
16 *every 30 days following initial registration pursuant to subdivision*
17 *(a) shall be punished in accordance with subdivision (g) of Section*
18 *290.018. Failure to comply with any other requirement of this*
19 *section shall be punished in accordance with either subdivision*
20 *(a) or (b) of Section 290.018.*

21 *(f) A transient who moves out of state shall inform, in person,*
22 *the chief of police in the city in which he or she is physically*
23 *present, or the sheriff of the county if he or she is physically present*
24 *in an unincorporated area or city that has no police department,*
25 *within five working days, of his or her move out of state. The*
26 *transient shall inform that registering agency of his or her planned*
27 *destination, residence or transient location out of state, and any*
28 *plans he or she has to return to California, if known. The law*
29 *enforcement agency shall, within three days after receipt of this*
30 *information, forward a copy of the change of location information*
31 *to the Department of Justice. The department shall forward*
32 *appropriate registration data to the law enforcement agency having*
33 *local jurisdiction of the new place of residence or location.*

34 *(g) For purposes of this section, “transient” means a person*
35 *who has no residence. “Residence” means one or more addresses*
36 *at which a person regularly resides, regardless of the number of*
37 *days or nights spent there, such as a shelter or structure that can*
38 *be located by a street address, including, but not limited to, houses,*
39 *apartment buildings, motels, hotels, homeless shelters, and*
40 *recreational and other vehicles.*

1 (h) *The transient registrant's duty to update his or her*
2 *registration no less than every 30 days shall begin with his or her*
3 *second transient update following the date this section became*
4 *effective.*

5 SEC. 20. *Section 290.012 is added to the Penal Code, to read:*

6 290.012. (a) *Beginning on his or her first birthday following*
7 *registration or change of address, the person shall be required to*
8 *register annually, within five working days of his or her birthday,*
9 *to update his or her registration with the entities described in*
10 *subdivision (b) of Section 290. At the annual update, the person*
11 *shall provide current information as required on the Department*
12 *of Justice annual update form, including the information described*
13 *in paragraphs (1) to (3), inclusive of subdivision (a) of Section*
14 *290.015. The registering agency shall give the registrant a copy*
15 *of the registration requirements from the Department of Justice*
16 *form.*

17 (b) *In addition, every person who has ever been adjudicated a*
18 *sexually violent predator, as defined in Section 6600 of the Welfare*
19 *and Institutions Code, shall, after his or her release from custody,*
20 *verify his or her address no less than once every 90 days and place*
21 *of employment, including the name and address of the employer,*
22 *in a manner established by the Department of Justice. Every person*
23 *who, as a sexually violent predator, is required to verify his or her*
24 *registration every 90 days, shall be notified wherever he or she*
25 *next registers of his or her increased registration obligations. This*
26 *notice shall be provided in writing by the registering agency or*
27 *agencies. Failure to receive this notice shall be a defense to the*
28 *penalties prescribed in subdivision (f) of Section 290.018.*

29 (c) *In addition, every person subject to the Act, while living as*
30 *a transient in California shall update his or her registration at*
31 *least every 30 days, in accordance with Section 290.011.*

32 (d) *No entity shall require a person to pay a fee to register or*
33 *update his or her registration pursuant to this section. The*
34 *registering agency shall submit registrations, including annual*
35 *updates or changes of address, directly into the Department of*
36 *Justice Violent Crime Information Network (VCIN).*

37 SEC. 21. *Section 290.013 is added to the Penal Code, to read:*

38 290.013. (a) *Any person who was last registered at a residence*
39 *address pursuant to the Act who changes his or her residence*
40 *address, whether within the jurisdiction in which he or she is*

1 *currently registered or to a new jurisdiction inside or outside the*
 2 *state, shall, in person, within five working days of the move, inform*
 3 *the law enforcement agency or agencies with which he or she last*
 4 *registered of the move, the new address or transient location, if*
 5 *known, and any plans he or she has to return to California.*

6 *(b) If the person does not know the new residence address or*
 7 *location at the time of the move, the registrant shall, in person,*
 8 *within five working days of the move, inform the last registering*
 9 *agency or agencies that he or she is moving. The person shall later*
 10 *notify the last registering agency or agencies, in writing, sent by*
 11 *certified or registered mail, of the new address or location within*
 12 *five working days of moving into the new residence address or*
 13 *location, whether temporary or permanent.*

14 *(c) The law enforcement agency or agencies shall, within three*
 15 *working days after receipt of this information, forward a copy of*
 16 *the change of address information to the Department of Justice.*
 17 *The Department of Justice shall forward appropriate registration*
 18 *data to the law enforcement agency or agencies having local*
 19 *jurisdiction of the new place of residence.*

20 *(d) If the person's new address is in a Department of*
 21 *Corrections and Rehabilitation facility or state mental institution,*
 22 *an official of the place of incarceration, placement, or commitment*
 23 *shall, within 90 days of receipt of the person, forward the*
 24 *registrant's change of address information to the Department of*
 25 *Justice. The agency need not provide a physical address for the*
 26 *registrant but shall indicate that he or she is serving a period of*
 27 *incarceration or commitment in a facility under the agency's*
 28 *jurisdiction. This subdivision shall apply to persons received in a*
 29 *department facility or state mental institution on or after January*
 30 *1, 1999. The Department of Justice shall forward the change of*
 31 *address information to the agency with which the person last*
 32 *registered.*

33 *SEC. 22. Section 290.014 is added to the Penal Code, to read:*

34 *290.014. If any person who is required to register pursuant to*
 35 *the Act changes his or her name, the person shall inform, in person,*
 36 *the law enforcement agency or agencies with which he or she is*
 37 *currently registered within five working days. The law enforcement*
 38 *agency or agencies shall forward a copy of this information to the*
 39 *Department of Justice within three working days of its receipt.*

40 *SEC. 23. Section 290.015 is added to the Penal Code, to read:*

1 290.015. (a) A person who is subject to the Act shall register,
2 or reregister if the person has previously registered, upon release
3 from incarceration, placement, commitment, or release on
4 probation pursuant to subdivision (b) of Section 290. This section
5 shall not apply to a person who is incarcerated for less than 30
6 days if he or she has registered as required by the Act, he or she
7 returns after incarceration to the last registered address, and the
8 annual update of registration that is required to occur within five
9 working days of his or her birthday, pursuant to subdivision (a)
10 of Section 290.012, did not fall within that incarceration period.
11 The registration shall consist of all of the following:

12 (1) A statement in writing signed by the person, giving
13 information as shall be required by the Department of Justice and
14 giving the name and address of the person's employer, and the
15 address of the person's place of employment if that is different
16 from the employer's main address.

17 (2) The fingerprints and a current photograph of the person
18 taken by the registering official.

19 (3) The license plate number of any vehicle owned by, regularly
20 driven by, or registered in the name of the person.

21 (4) Notice to the person that, in addition to the requirements of
22 the Act, he or she may have a duty to register in any other state
23 where he or she may relocate.

24 (5) Copies of adequate proof of residence, which shall be limited
25 to a California driver's license, California identification card,
26 recent rent or utility receipt, printed personalized checks or other
27 recent banking documents showing that person's name and
28 address, or any other information that the registering official
29 believes is reliable. If the person has no residence and no
30 reasonable expectation of obtaining a residence in the foreseeable
31 future, the person shall so advise the registering official and shall
32 sign a statement provided by the registering official stating that
33 fact. Upon presentation of proof of residence to the registering
34 official or a signed statement that the person has no residence, the
35 person shall be allowed to register. If the person claims that he
36 or she has a residence but does not have any proof of residence,
37 he or she shall be allowed to register but shall furnish proof of
38 residence within 30 days of the date he or she is allowed to register.

39 (b) Within three days thereafter, the registering law enforcement
40 agency or agencies shall forward the statement, fingerprints,

1 *photograph, and vehicle license plate number, if any, to the*
2 *Department of Justice.*

3 *SEC. 24. Section 290.016 is added to the Penal Code, to read:*

4 *290.016. (a) On or after January 1, 1998, upon incarceration,*
5 *placement, or commitment, or prior to release on probation, any*
6 *person who is required to register under the Act shall preregister.*
7 *The preregistering official shall be the admitting officer at the*
8 *place of incarceration, placement, or commitment, or the probation*
9 *officer if the person is to be released on probation. The*
10 *preregistration shall consist of all of the following:*

11 *(1) A preregistration statement in writing, signed by the person,*
12 *giving information that shall be required by the Department of*
13 *Justice.*

14 *(2) The fingerprints and a current photograph of the person.*

15 *(3) Any person who is preregistered pursuant to this subdivision*
16 *is required to be preregistered only once.*

17 *(b) Within three days thereafter, the preregistering official shall*
18 *forward the statement, fingerprints, photograph, and vehicle license*
19 *plate number, if any, to the Department of Justice.*

20 *SEC. 25. Section 290.017 is added to the Penal Code, to read:*

21 *290.017. (a) Any person who is released, discharged, or*
22 *paroled from a jail, state or federal prison, school, road camp, or*
23 *other institution where he or she was confined, who is required to*
24 *register pursuant to the Act, shall, prior to discharge, parole, or*
25 *release, be informed of his or her duty to register under the Act*
26 *by the official in charge of the place of confinement or hospital,*
27 *and the official shall require the person to read and sign any form*
28 *that may be required by the Department of Justice, stating that the*
29 *duty of the person to register under the Act has been explained to*
30 *the person. The official in charge of the place of confinement or*
31 *hospital shall obtain the address where the person expects to reside*
32 *upon his or her discharge, parole, or release and shall report the*
33 *address to the Department of Justice. The official shall at the same*
34 *time forward a current photograph of the person to the Department*
35 *of Justice.*

36 *(b) The official in charge of the place of confinement or hospital*
37 *shall give one copy of the form to the person and shall send one*
38 *copy to the Department of Justice and one copy to the appropriate*
39 *law enforcement agency or agencies having jurisdiction over the*
40 *place the person expects to reside upon discharge, parole, or*

1 release. If the conviction that makes the person subject to the Act
2 is a felony conviction, the official in charge shall, not later than
3 45 days prior to the scheduled release of the person, send one copy
4 to the appropriate law enforcement agency or agencies having
5 local jurisdiction where the person expects to reside upon
6 discharge, parole, or release; one copy to the prosecuting agency
7 that prosecuted the person; and one copy to the Department of
8 Justice. The official in charge of the place of confinement or
9 hospital shall retain one copy.

10 (c) Any person who is required to register pursuant to the Act
11 and who is released on probation, shall, prior to release or
12 discharge, be informed of the duty to register under the Act by the
13 probation department, and a probation officer shall require the
14 person to read and sign any form that may be required by the
15 Department of Justice, stating that the duty of the person to register
16 has been explained to him or her. The probation officer shall obtain
17 the address where the person expects to reside upon release or
18 discharge and shall report within three days the address to the
19 Department of Justice. The probation officer shall give one copy
20 of the form to the person, send one copy to the Department of
21 Justice, and forward one copy to the appropriate law enforcement
22 agency or agencies having local jurisdiction where the person
23 expects to reside upon his or her discharge, parole, or release.

24 (d) Any person who is required to register pursuant to the Act
25 and who is granted conditional release without supervised
26 probation, or discharged upon payment of a fine, shall, prior to
27 release or discharge, be informed of the duty to register under the
28 Act in open court by the court in which the person has been
29 convicted, and the court shall require the person to read and sign
30 any form that may be required by the Department of Justice, stating
31 that the duty of the person to register has been explained to him
32 or her. If the court finds that it is in the interest of the efficiency
33 of the court, the court may assign the bailiff to require the person
34 to read and sign forms under the Act. The court shall obtain the
35 address where the person expects to reside upon release or
36 discharge and shall report within three days the address to the
37 Department of Justice. The court shall give one copy of the form
38 to the person, send one copy to the Department of Justice, and
39 forward one copy to the appropriate law enforcement agency or

1 agencies having local jurisdiction where the person expects to
2 reside upon his or her discharge, parole, or release.

3 SEC. 26. Section 290.018 is added to the Penal Code, to read:

4 290.018. (a) Any person who is required to register under the
5 Act based on a misdemeanor conviction or juvenile adjudication
6 who willfully violates any requirement of the Act is guilty of a
7 misdemeanor punishable by imprisonment in a county jail not
8 exceeding one year.

9 (b) Except as provided in subdivisions (f), (h), and (j), any
10 person who is required to register under the Act based on a felony
11 conviction or juvenile adjudication who willfully violates any
12 requirement of the Act or who has a prior conviction or juvenile
13 adjudication for the offense of failing to register under the Act and
14 who subsequently and willfully violates any requirement of the Act
15 is guilty of a felony and shall be punished by imprisonment in the
16 state prison for 16 months, or two or three years.

17 (c) If probation is granted or if the imposition or execution of
18 sentence is suspended, it shall be a condition of the probation or
19 suspension that the person serve at least 90 days in a county jail.
20 The penalty described in subdivision (b) or this subdivision shall
21 apply whether or not the person has been released on parole or
22 has been discharged from parole.

23 (d) Any person determined to be a mentally disordered sex
24 offender or who has been found guilty in the guilt phase of trial
25 for an offense for which registration is required under the Act, but
26 who has been found not guilty by reason of insanity in the sanity
27 phase of the trial, or who has had a petition sustained in a juvenile
28 adjudication for an offense for which registration is required
29 pursuant to Section 290.008, but who has been found not guilty
30 by reason of insanity, who willfully violates any requirement of
31 the Act is guilty of a misdemeanor and shall be punished by
32 imprisonment in a county jail not exceeding one year. For any
33 second or subsequent willful violation of any requirement of the
34 Act, the person is guilty of a felony and shall be punished by
35 imprisonment in the state prison for 16 months, or two or three
36 years.

37 (e) If, after discharge from parole, the person is convicted of a
38 felony or suffers a juvenile adjudication as specified in this act,
39 he or she shall be required to complete parole of at least one year;
40 in addition to any other punishment imposed under this section.

1 A person convicted of a felony as specified in this section may be
2 granted probation only in the unusual case where the interests of
3 justice would best be served. When probation is granted under
4 this act, the court shall specify on the record and shall enter into
5 the minutes the circumstances indicating that the interests of justice
6 would best be served by the disposition.

7 (f) Any person who has ever been adjudicated a sexually violent
8 predator, as defined in Section 6600 of the Welfare and Institutions
9 Code, and who fails to verify his or her registration every 90 days
10 as required pursuant to subdivision (b) of Section 290.012, shall
11 be punished by imprisonment in the state prison, or in a county
12 jail not exceeding one year.

13 (g) Except as otherwise provided in subdivision (f), any person
14 who is required to register or reregister pursuant to Section
15 290.011 and willfully fails to comply with the requirement that he
16 or she reregister no less than every 30 days is guilty of a
17 misdemeanor and shall be punished by imprisonment in a county
18 jail for at least 30 days, but not exceeding six months. A person
19 who willfully fails to comply with the requirement that he or she
20 reregister no less than every 30 days shall not be charged with
21 this violation more often than once for a failure to register in any
22 period of 90 days. Any person who willfully commits a third or
23 subsequent violation of the requirements of Section 290.011 that
24 he or she reregister no less than every 30 days shall be punished
25 in accordance with either subdivision (a) or (b).

26 (h) Any person who fails to provide proof of residence as
27 required by paragraph (5) of subdivision (a) of Section 290.015,
28 regardless of the offense upon which the duty to register is based,
29 is guilty of a misdemeanor punishable by imprisonment in a county
30 jail not exceeding six months.

31 (i) Any person who is required to register under the Act who
32 willfully violates any requirement of the Act is guilty of a
33 continuing offense as to each requirement he or she violated.

34 (j) In addition to any other penalty imposed under this section,
35 the failure to provide information required on registration and
36 reregistration forms of the Department of Justice, or the provision
37 of false information, is a crime punishable by imprisonment in a
38 county jail for a period not exceeding one year.

39 (k) Whenever any person is released on parole or probation
40 and is required to register under the Act but fails to do so within

1 *the time prescribed, the parole authority or the court, as the case*
2 *may be, shall order the parole or probation of the person revoked.*
3 *For purposes of this subdivision, “parole authority” has the same*
4 *meaning as described in Section 3000.*

5 *SEC. 27. Section 290.019 is added to the Penal Code, to read:*

6 *290.019. (a) Notwithstanding any other section in the Act, a*
7 *person who was convicted before January 1, 1976, under*
8 *subdivision (a) of Section 286, or Section 288a, shall not be*
9 *required to register pursuant to the Act for that conviction if the*
10 *conviction was for conduct between consenting adults that was*
11 *decriminalized by Chapter 71 of the Statutes of 1975 or Chapter*
12 *1139 of the Statutes of 1976. The Department of Justice shall*
13 *remove that person from the Sex Offender Registry, and the person*
14 *is discharged from his or her duty to register pursuant to either*
15 *of the following procedures:*

16 *(1) The person submits to the Department of Justice official*
17 *documentary evidence, including court records or police reports,*
18 *that demonstrate that the person’s conviction pursuant to either*
19 *of those sections was for conduct between consenting adults that*
20 *was decriminalized.*

21 *(2) The person submits to the department a declaration stating*
22 *that the person’s conviction pursuant to either of those sections*
23 *was for consensual conduct between adults that has been*
24 *decriminalized. The declaration shall be confidential and not a*
25 *public record, and shall include the person’s name, address,*
26 *telephone number, date of birth, and a summary of the*
27 *circumstances leading to the conviction, including the date of the*
28 *conviction and county of the occurrence.*

29 *(b) The department shall determine whether the person’s*
30 *conviction was for conduct between consensual adults that has*
31 *been decriminalized. If the conviction was for consensual conduct*
32 *between adults that has been decriminalized, and the person has*
33 *no other offenses for which he or she is required to register*
34 *pursuant to the Act, the department shall, within 60 days of receipt*
35 *of those documents, notify the person that he or she is relieved of*
36 *the duty to register, and shall notify the local law enforcement*
37 *agency with which the person is registered that he or she has been*
38 *relieved of the duty to register. The local law enforcement agency*
39 *shall remove the person’s registration from its files within 30 days*
40 *of receipt of notification. If the documentary or other evidence*

1 submitted is insufficient to establish the person's claim, the
2 department shall, within 60 days of receipt of those documents,
3 notify the person that his or her claim cannot be established, and
4 that the person shall continue to register pursuant to the Act. The
5 department shall provide, upon the person's request, any
6 information relied upon by the department in making its
7 determination that the person shall continue to register pursuant
8 to the Act. Any person whose claim has been denied by the
9 department pursuant to this subdivision may petition the court to
10 appeal the department's denial of the person's claim.

11 SEC. 28. Section 290.020 is added to the Penal Code, to read:

12 290.020. In any case in which a person who would be required
13 to register pursuant to the Act for a felony conviction is to be
14 temporarily sent outside the institution where he or she is confined
15 on any assignment within a city or county including firefighting,
16 disaster control, or of whatever nature the assignment may be, the
17 local law enforcement agency having jurisdiction over the place
18 or places where the assignment shall occur shall be notified within
19 a reasonable time prior to removal from the institution. This section
20 shall not apply to any person who is temporarily released under
21 guard from the institution where he or she is confined.

22 SEC. 29. Section 290.021 is added to the Penal Code, to read:

23 290.021. Except as otherwise provided by law, the statements,
24 photographs, and fingerprints required by the Act shall not be
25 open to inspection by the public or by any person other than a
26 regularly employed peace officer or other law enforcement officer.

27 SEC. 30. Section 290.022 is added to the Penal Code, to read:

28 290.022. On or before July 1, 2010, the Department of Justice
29 shall renovate the VCIN to do the following:

30 (1) Correct all software deficiencies affecting data integrity and
31 include designated data fields for all mandated sex offender data.

32 (2) Consolidate and simplify program logic, thereby increasing
33 system performance and reducing system maintenance costs.

34 (3) Provide all necessary data storage, processing, and search
35 capabilities.

36 (4) Provide law enforcement agencies with full Internet access
37 to all sex offender data and photos.

38 (5) Incorporate a flexible design structure to readily meet future
39 demands for enhanced system functionality, including public

1 *Internet access to sex offender information pursuant to Section*
2 *290.46.*

3 *SEC. 31. Section 290.023 is added to the Penal Code, to read:*
4 *290.023. The registration provisions of the Act are applicable*
5 *to every person described in the Act, without regard to when his*
6 *or her crime or crimes were committed or his or her duty to*
7 *register pursuant to the Act arose, and to every offense described*
8 *in the Act, regardless of when it was committed.*

9 *SEC. 32. Section 290.01 of the Penal Code is amended to read:*

10 290.01. (a) (1) Commencing October 28, 2002, every person
11 required to register ~~under Section 290~~ pursuant to Sections 290 to
12 290.009, inclusive, of the Sex Offender Registration Act who is
13 enrolled as a student of any university, college, community college,
14 or other institution of higher learning, or is, with or without
15 compensation, a full-time or part-time employee of that university,
16 college, community college, or other institution of higher learning,
17 or is carrying on a vocation at the university, college, community
18 college, or other institution of higher learning, for more than 14
19 days, or for an aggregate period exceeding 30 days in a calendar
20 year, shall, in addition to the registration required by ~~Section 290~~
21 *the Sex Offender Registration Act*, register with the campus police
22 department within five working days of commencing enrollment
23 or employment at that university, college, community college, or
24 other institution of higher learning, on a form as may be required
25 by the Department of Justice. The terms “employed or carries on
26 a vocation” include employment whether or not financially
27 compensated, volunteered, or performed for government or
28 educational benefit. The registrant shall also notify the campus
29 police department within five working days of ceasing to be
30 enrolled or employed, or ceasing to carry on a vocation, at the
31 university, college, community college, or other institution of
32 higher learning.

33 (2) For purposes of this section, a campus police department is
34 a police department of the University of California, California
35 State University, or California Community College, established
36 pursuant to Section 72330, 89560, or 92600 of the Education Code,
37 or is a police department staffed with deputized or appointed
38 personnel with peace officer status as provided in Section 830.6
39 of the Penal Code and is the law enforcement agency with the

1 primary responsibility for investigating crimes occurring on the
2 college or university campus on which it is located.

3 (b) If the university, college, community college, or other
4 institution of higher learning has no campus police department,
5 the registrant shall instead register pursuant to subdivision (a) with
6 the police of the city in which the campus is located or the sheriff
7 of the county in which the campus is located if the campus is
8 located in an unincorporated area or in a city that has no police
9 department, on a form as may be required by the Department of
10 Justice. The requirements of subdivisions (a) and (b) are in addition
11 to the requirements of ~~Section 290~~ *the Sex Offender Registration*
12 *Act*.

13 (c) A first violation of this section is a misdemeanor punishable
14 by a fine not to exceed one thousand dollars (\$1,000). A second
15 violation of this section is a misdemeanor punishable by
16 imprisonment in a county jail for not more than six months, by a
17 fine not to exceed one thousand dollars (\$1,000), or by both that
18 imprisonment and fine. A third or subsequent violation of this
19 section is a misdemeanor punishable by imprisonment in a county
20 jail for not more than one year, by a fine not exceeding one
21 thousand dollars (\$1,000), or by both that imprisonment and fine.

22 (d) (1) (A) The following information regarding a registered
23 sex offender on campus as to whom information shall not be made
24 available to the public via the Internet Web site as provided in
25 Section 290.46 may be released to members of the campus
26 community by any campus police department or, if the university,
27 college, community college, or other institution of higher learning
28 has no police department, the police department or sheriff's
29 department with jurisdiction over the campus, and any employees
30 of those agencies, as required by Section 1092(f)(1)(I) of Title 20
31 of the United States Code:

- 32 (i) The offender's full name.
- 33 (ii) The offender's known aliases.
- 34 (iii) The offender's gender.
- 35 (iv) The offender's race.
- 36 (v) The offender's physical description.
- 37 (vi) The offender's photograph.
- 38 (vii) The offender's date of birth.
- 39 (viii) Crimes resulting in registration under Section 290.
- 40 (ix) The date of last registration or reregistration.

1 (B) The authority provided in this subdivision is in addition to
2 the authority of a peace officer or law enforcement agency to
3 provide information about a registered sex offender pursuant to
4 Section 290.45, and exists notwithstanding ~~subdivision (i) of~~
5 ~~Section 290~~ *Section 290.021* or any other provision of law.

6 (2) Any law enforcement entity and employees of any law
7 enforcement entity listed in paragraph (1) shall be immune from
8 civil or criminal liability for good faith conduct under this
9 subdivision.

10 (3) Nothing in this subdivision shall be construed to authorize
11 campus police departments or, if the university, college, community
12 college, or other institution has no police department, the police
13 department or sheriff's department with jurisdiction over the
14 campus, to make disclosures about registrants intended to reach
15 persons beyond the campus community.

16 (4) (A) Before being provided any information by an agency
17 pursuant to this subdivision, a member of the campus community
18 who requests that information shall sign a statement, on a form
19 provided by the Department of Justice, stating that he or she is not
20 a registered sex offender, that he or she understands the purpose
21 of the release of information is to allow members of the campus
22 community to protect themselves and their children from sex
23 offenders, and that he or she understands it is unlawful to use
24 information obtained pursuant to this subdivision to commit a
25 crime against any registrant or to engage in illegal discrimination
26 or harassment of any registrant. The signed statement shall be
27 maintained in a file in the agency's office for a minimum of five
28 years.

29 (B) An agency disseminating printed information pursuant to
30 this subdivision shall maintain records of the means and dates of
31 dissemination for a minimum of five years.

32 (5) For purposes of this subdivision, "campus community"
33 means those persons present at, and those persons regularly
34 frequenting, any place associated with an institution of higher
35 education, including campuses; administrative and educational
36 offices; laboratories; satellite facilities owned or utilized by the
37 institution for educational instruction, business, or institutional
38 events; and public areas contiguous to any campus or facility that
39 are regularly frequented by students, employees, or volunteers of
40 the campus.

1 ~~SEC. 2.~~

2 *SEC. 33.* Section 290.04 of the Penal Code is amended to read:

3 290.04. (a) (1) The sex offender risk assessment tools
4 authorized by this section for use with selected populations shall
5 be known, with respect to each population, as the State-Authorized
6 Risk Assessment Tool for Sex Offenders (SARATSO). If a
7 SARATSO has not been selected for a given population pursuant
8 to this section, no duty to administer the SARATSO elsewhere in
9 this code shall apply with respect to that population. Every person
10 required to register as a sex offender shall be subject to assessment
11 with the SARATSO as set forth in this section and elsewhere in
12 this code.

13 (2) A representative of the State Department of Mental Health,
14 in consultation with a representative of the Department of
15 Corrections and Rehabilitation and a representative of the Attorney
16 General's office, shall comprise the SARATSO Review
17 Committee. The purpose of the committee, which shall be staffed
18 by the State Department of Mental Health, shall be to ensure that
19 the SARATSO reflects the most reliable, objective and
20 well-established protocols for predicting sex offender risk of
21 recidivism, has been scientifically validated and cross validated,
22 and is, or is reasonably likely to be, widely accepted by the courts.
23 The committee shall consult with experts in the fields of risk
24 assessment and the use of actuarial instruments in predicting sex
25 offender risk, sex offending, sex offender treatment, mental health,
26 and law, as it deems appropriate.

27 (b) (1) Commencing January 1, 2007, the SARATSO for adult
28 males required to register as sex offenders shall be the STATIC-99
29 risk assessment scale.

30 (2) On or before January 1, 2008, the SARATSO Review
31 Committee shall determine whether the STATIC-99 should be
32 supplemented with an actuarial instrument that measures dynamic
33 risk factors or whether the STATIC-99 should be replaced as the
34 SARATSO with a different risk assessment tool. If the committee
35 unanimously agrees on changes to be made to the SARATSO, it
36 shall advise the Governor and the Legislature of the changes, and
37 the State Department of Mental Health shall post the decision on
38 its Internet Web site. Sixty days after the decision is posted, the
39 selected tool shall become the SARATSO for adult males.

1 (c) On or before July 1, 2007, the SARATSO Review Committee
2 shall research risk assessment tools for adult females required to
3 register as sex offenders. If the committee unanimously agrees on
4 an appropriate risk assessment tool to be used to assess this
5 population, it shall advise the Governor and the Legislature of the
6 selected tool, and the State Department of Mental Health shall post
7 the decision on its Internet Web site. Sixty days after the decision
8 is posted, the selected tool shall become the SARATSO for adult
9 females.

10 (d) On or before July 1, 2007, the SARATSO Review
11 Committee shall research risk assessment tools for male juveniles
12 required to register as sex offenders. If the committee unanimously
13 agrees on an appropriate risk assessment tool to be used to assess
14 this population, it shall advise the Governor and the Legislature
15 of the selected tool, and the State Department of Mental Health
16 shall post the decision on its Internet Web site. Sixty days after
17 the decision is posted, the selected tool shall become the
18 SARATSO for male juveniles.

19 (e) On or before July 1, 2007, the SARATSO Review Committee
20 shall research risk assessment tools for female juveniles required
21 to register as sex offenders. If the committee unanimously agrees
22 on an appropriate risk assessment tool to be used to assess this
23 population, it shall advise the Governor and the Legislature of the
24 selected tool, and the State Department of Mental Health shall post
25 the decision on its Internet Web site. Sixty days after the decision
26 is posted, the selected tool shall become the SARATSO for female
27 juveniles.

28 (f) The committee shall periodically evaluate the SARATSO
29 for each specified population. If the committee unanimously agrees
30 on a change to the SARATSO for any population, it shall advise
31 the Governor and the Legislature of the selected tool, and the State
32 Department of Mental Health shall post the decision on its Internet
33 Web site. Sixty days after the decision is posted, the selected tool
34 shall become the SARATSO for that population.

35 (g) The committee shall perform other functions consistent with
36 the provisions of this act or as may be otherwise required by law,
37 including, but not limited to, defining tiers of risk based on the
38 SARATSO. The committee shall be immune from liability for
39 good faith conduct under this act.

1 ~~SEC. 3.~~

2 *SEC. 34.* Section 290.05 of the Penal Code is amended to read:

3 290.05. (a) The SARATSO Training Committee shall be
4 comprised of a representative of the State Department of Mental
5 Health, a representative of the Department of Corrections and
6 Rehabilitation, a representative of the Attorney General's Office,
7 and a representative of the Chief Probation Officers of California.

8 (b) On or before January 1, 2008, the SARATSO Training
9 Committee, in consultation with the Corrections Standards
10 Authority and the Commission on Peace Officer Standards and
11 Training, shall develop a training program for persons authorized
12 by this code to administer the SARATSO, as set forth in Section
13 290.04.

14 (c) (1) The Department of Corrections and Rehabilitation shall
15 be responsible for overseeing the training of persons who will
16 administer the SARATSO pursuant to paragraph (1) or (2) of
17 subdivision (a) of Section 290.06.

18 (2) The State Department of Mental Health shall be responsible
19 for overseeing the training of persons who will administer the
20 SARATSO pursuant to paragraph (3) of subdivision (a) of Section
21 290.06.

22 (3) The Correction Standards Authority shall be responsible for
23 developing standards for the training of persons who will
24 administer the SARATSO pursuant to paragraph (4) or (5) of
25 subdivision (a) of Section 290.06.

26 (4) The Commission on Peace Officer Standards and Training
27 shall be responsible for developing standards for the training of
28 persons who will administer the SARATSO pursuant to subdivision
29 (c) of Section 290.06.

30 (d) The training shall be conducted by experts in the field of
31 risk assessment and the use of actuarial instruments in predicting
32 sex offender risk. Subject to requirements established by the
33 committee, the Department of Corrections and Rehabilitation, the
34 State Department of Mental Health, probation departments, and
35 authorized local law enforcement agencies shall designate key
36 persons within their organizations to attend training and, as
37 authorized by the department, to train others within their
38 organizations designated to perform risk assessments as required
39 or authorized by law. Any person who administers the SARATSO
40 shall receive training no less frequently than every two years.

1 (e) The SARATSO may be performed for purposes authorized
2 by statute only by persons trained pursuant to this section.

3 ~~SEC. 4~~

4 *SEC. 35.* Section 290.3 of the Penal Code is amended to read:

5 290.3. (a) Every person who is convicted of any offense
6 specified in subdivision (c) of Section 290 shall, in addition to any
7 imprisonment or fine, or both, imposed for commission of the
8 underlying offense, be punished by a fine of three hundred dollars
9 (\$300) upon the first conviction or a fine of five hundred dollars
10 (\$500) upon the second and each subsequent conviction, unless
11 the court determines that the defendant does not have the ability
12 to pay the fine.

13 An amount equal to all fines collected pursuant to this
14 subdivision during the preceding month upon conviction of, or
15 upon the forfeiture of bail by, any person arrested for, or convicted
16 of, committing an offense specified in subdivision (c) of Section
17 290, shall be transferred once a month by the county treasurer to
18 the Controller for deposit in the General Fund. Moneys deposited
19 in the General Fund pursuant to this subdivision shall be transferred
20 by the Controller as provided in subdivision (b).

21 (b) Except as provided in subdivision (d), out of the moneys
22 deposited pursuant to subdivision (a) as a result of second and
23 subsequent convictions of Section 290, one-third shall first be
24 transferred to the Department of Justice Sexual Habitual Offender
25 Fund, as provided in paragraph (1) of this subdivision. Out of the
26 remainder of all moneys deposited pursuant to subdivision (a), 50
27 percent shall be transferred to the Department of Justice Sexual
28 Habitual Offender Fund, as provided in paragraph (1), 25 percent
29 shall be transferred to the Department of Justice DNA Testing
30 Fund, as provided in paragraph (2), and 25 percent shall be
31 allocated equally to counties that maintain a local DNA testing
32 laboratory, as provided in paragraph (3).

33 (1) Those moneys so designated shall be transferred to the
34 Department of Justice Sexual Habitual Offender Fund created
35 pursuant to paragraph (5) of subdivision (b) of Section 11170 and,
36 when appropriated by the Legislature, shall be used for the
37 purposes of Chapter 9.5 (commencing with Section 13885) and
38 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4
39 for the purpose of monitoring, apprehending, and prosecuting
40 sexual habitual offenders.

(2) Those moneys so designated shall be directed to the Department of Justice and transferred to the Department of Justice DNA Testing Fund, which is hereby created, for the exclusive purpose of testing deoxyribonucleic acid (DNA) samples for law enforcement purposes. The moneys in that fund shall be available for expenditure upon appropriation by the Legislature.

(3) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections and Rehabilitation may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (c) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections and Rehabilitation. All moneys collected by the Department of Corrections and Rehabilitation under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

(d) An amount equal to one hundred dollars (\$100) for every fine imposed pursuant to subdivision (a) in excess of one hundred dollars (\$100) shall be transferred to the Department of Corrections and Rehabilitation to defray the cost of the global positioning system used to monitor sex offender parolees.

~~SEC. 5.~~

SEC. 36. Section 290.46 of the Penal Code is amended to read:

290.46. (a) (1) On or before the dates specified in this section, the Department of Justice shall make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in this section. The department shall update the Internet Web site on an ongoing basis. All information identifying the victim by name, birth date, address, or relationship to the registrant shall be excluded from the Internet Web site. The name or address of the

1 person's employer and the listed person's criminal history other
2 than the specific crimes for which the person is required to register
3 shall not be included on the Internet Web site. The Internet Web
4 site shall be translated into languages other than English as
5 determined by the department.

6 (2) (A) On or before July 1, 2010, the Department of Justice
7 shall make available to the public, via an Internet Web site as
8 specified in this section, as to any person described in subdivisions
9 (b), (c), or (d), the following information:

10 (i) The year of conviction of his or her most recent offense
11 requiring registration pursuant to Section 290.

12 (ii) The year he or she was released from incarceration for that
13 offense.

14 (iii) Whether he or she was subsequently incarcerated for any
15 other felony, if that fact is reported to the department. If the
16 department has no information about a subsequent incarceration
17 for any felony, that fact shall be noted on the Internet Web site.

18 However, no year of conviction shall be made available to the
19 public unless the department also is able to make available the
20 corresponding year of release of incarceration for that offense, and
21 the required notation regarding any subsequent felony.

22 (B) (i) Any state facility that releases from incarceration a
23 person who was incarcerated because of a crime for which he or
24 she is required to register as a sex offender pursuant to Section
25 290 shall, within 30 days of release, provide the year of release
26 for his or her most recent offense requiring registration to the
27 Department of Justice in a manner and format approved by the
28 department.

29 (ii) Any state facility that releases a person who is required to
30 register pursuant to Section 290 from incarceration whose
31 incarceration was for a felony committed subsequently to the
32 offense for which he or she is required to register shall, within 30
33 days of release, advise the Department of Justice of that fact.

34 (iii) Any state facility that, prior to January 1, 2007, released
35 from incarceration a person who was incarcerated because of a
36 crime for which he or she is required to register as a sex offender
37 pursuant to Section 290 shall provide the year of release for his or
38 her most recent offense requiring registration to the Department
39 of Justice in a manner and format approved by the department.

40 The information provided by the Department of Corrections and

1 Rehabilitation shall be limited to information that is currently
2 maintained in an electronic format.

3 (iv) Any state facility that, prior to January 1, 2007, released a
4 person who is required to register pursuant to Section 290 from
5 incarceration whose incarceration was for a felony committed
6 subsequently to the offense for which he or she is required to
7 register shall advise the Department of Justice of that fact in a
8 manner and format approved by the department. The information
9 provided by the Department of Corrections and Rehabilitation
10 shall be limited to information that is currently maintained in an
11 electronic format.

12 (3) The State Department of Mental Health shall provide to the
13 Department of Justice Sex Offender Tracking Program the names
14 of all persons committed to its custody pursuant to Article 4
15 (commencing with Section 6600) of Chapter 2 of Part 2 of Division
16 6 of the Welfare and Institutions Code, within 30 days of
17 commitment, and shall provide the names of all of those persons
18 released from its custody within five working days of release.

19 (b) (1) On or before July 1, 2005, with respect to a person who
20 has been convicted of the commission or the attempted commission
21 of any of the offenses listed in, or who is described in, paragraph
22 (2), the Department of Justice shall make available to the public
23 via the Internet Web site his or her name and known aliases, a
24 photograph, a physical description, including gender and race, date
25 of birth, criminal history, prior adjudication as a sexually violent
26 predator, the address at which the person resides, and any other
27 information that the Department of Justice deems relevant, but not
28 the information excluded pursuant to subdivision (a).

29 (2) This subdivision shall apply to the following offenses and
30 offenders:

31 (A) Section 207 committed with intent to violate Section 261,
32 286, 288, 288a, or 289.

33 (B) Section 209 committed with intent to violate Section 261,
34 286, 288, 288a, or 289.

35 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

36 (D) Section 264.1.

37 (E) Section 269.

38 (F) Subdivision (c) or (d) of Section 286.

39 (G) Subdivision (a), (b), or (c) of Section 288, provided that the
40 offense is a felony.

1 (H) Subdivision (c) or (d) of Section 288a.

2 (I) Section 288.3, provided that the offense is a felony.

3 (J) Section 288.4, provided that the offense is a felony.

4 (K) Section 288.5.

5 (L) Subdivision (a) or (j) of Section 289.

6 (M) Section 288.7.

7 (N) Any person who has ever been adjudicated a sexually violent
8 predator, as defined in Section 6600 of the Welfare and Institutions
9 Code.

10 (c) (1) On or before July 1, 2005, with respect to a person who
11 has been convicted of the commission or the attempted commission
12 of any of the offenses listed in paragraph (2), the Department of
13 Justice shall make available to the public via the Internet Web site
14 his or her name and known aliases, a photograph, a physical
15 description, including gender and race, date of birth, criminal
16 history, the community of residence and ZIP Code in which the
17 person resides or the county in which the person is registered as a
18 transient, and any other information that the Department of Justice
19 deems relevant, but not the information excluded pursuant to
20 subdivision (a). On or before July 1, 2006, the Department of
21 Justice shall determine whether any person convicted of an offense
22 listed in paragraph (2) also has one or more prior or subsequent
23 convictions of an offense listed in subdivision (c) of Section 290,
24 and, for those persons, the Department of Justice shall make
25 available to the public via the Internet Web site the address at
26 which the person resides. However, the address at which the person
27 resides shall not be disclosed until a determination is made that
28 the person is, by virtue of his or her additional prior or subsequent
29 conviction of an offense listed in subdivision (c) of Section 290,
30 subject to this subdivision.

31 (2) This subdivision shall apply to the following offenses:

32 (A) Section 220, except assault to commit mayhem.

33 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

34 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
35 (i), of Section 286.

36 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
37 (i), of Section 288a.

38 (E) Subdivision (b), (d), (e), or (i) of Section 289.

39 (d) (1) On or before July 1, 2005, with respect to a person who
40 has been convicted of the commission or the attempted commission

1 of any of the offenses listed in, or who is described in, this
2 subdivision, the Department of Justice shall make available to the
3 public via the Internet Web site his or her name and known aliases,
4 a photograph, a physical description, including gender and race,
5 date of birth, criminal history, the community of residence and
6 ZIP Code in which the person resides or the county in which the
7 person is registered as a transient, and any other information that
8 the Department of Justice deems relevant, but not the information
9 excluded pursuant to subdivision (a) or the address at which the
10 person resides.

11 (2) This subdivision shall apply to the following offenses and
12 offenders:

13 (A) Subdivision (a) of Section 243.4, provided that the offense
14 is a felony.

15 (B) Section 266, provided that the offense is a felony.

16 (C) Section 266c, provided that the offense is a felony.

17 (D) Section 266j.

18 (E) Section 267.

19 (F) Subdivision (c) of Section 288, provided that the offense is
20 a misdemeanor.

21 (G) Section 288.3, provided that the offense is a misdemeanor.

22 (H) Section 288.4, provided that the offense is a misdemeanor.

23 (I) Section 626.81.

24 (J) Section 647.6.

25 (K) Section 653c.

26 (L) Any person required to register pursuant to Section 290
27 based upon an out-of-state conviction, unless that person is
28 excluded from the Internet Web site pursuant to subdivision (e).
29 However, if the Department of Justice has determined that the
30 out-of-state crime, if committed or attempted in this state, would
31 have been punishable in this state as a crime described in
32 subdivision (c) of Section 290, the person shall be placed on the
33 Internet Web site as provided in subdivision (b) or (c), as applicable
34 to the crime.

35 (e) (1) If a person has been convicted of the commission or the
36 attempted commission of any of the offenses listed in this
37 subdivision, and he or she has been convicted of no other offense
38 listed in subdivision (b), (c), or (d) other than those listed in this
39 subdivision, that person may file an application with the
40 Department of Justice, on a form approved by the department, for

1 exclusion from the Internet Web site. If the department determines
2 that the person meets the requirements of this subdivision, the
3 department shall grant the exclusion and no information concerning
4 the person shall be made available via the Internet Web site
5 described in this section. He or she bears the burden of proving
6 the facts that make him or her eligible for exclusion from the
7 Internet Web site. However, a person who has filed for or been
8 granted an exclusion from the Internet Web site is not relieved of
9 his or her duty to register as a sex offender pursuant to Section
10 290 nor from any otherwise applicable provision of law.

11 (2) This subdivision shall apply to the following offenses:

12 (A) A felony violation of subdivision (a) of Section 243.4.

13 (B) Section 647.6, if the offense is a misdemeanor.

14 (C) (i) An offense for which the offender successfully
15 completed probation, provided that the offender submits to the
16 department a certified copy of a probation report, presentencing
17 report, report prepared pursuant to Section 288.1, or other official
18 court document that clearly demonstrates that the offender was
19 the victim's parent, stepparent, sibling, or grandparent and that the
20 crime did not involve either oral copulation or penetration of the
21 vagina or rectum of either the victim or the offender by the penis
22 of the other or by any foreign object.

23 (ii) An offense for which the offender is on probation at the
24 time of his or her application, provided that the offender submits
25 to the department a certified copy of a probation report,
26 presentencing report, report prepared pursuant to Section 288.1,
27 or other official court document that clearly demonstrates that the
28 offender was the victim's parent, stepparent, sibling, or grandparent
29 and that the crime did not involve either oral copulation or
30 penetration of the vagina or rectum of either the victim or the
31 offender by the penis of the other or by any foreign object.

32 (iii) If, subsequent to his or her application, the offender commits
33 a violation of probation resulting in his or her incarceration in
34 county jail or state prison, his or her exclusion, or application for
35 exclusion, from the Internet Web site shall be terminated.

36 (iv) For the purposes of this subparagraph, "successfully
37 completed probation" means that during the period of probation
38 the offender neither received additional county jail or state prison
39 time for a violation of probation nor was convicted of another
40 offense resulting in a sentence to county jail or state prison.

1 (3) If the department determines that a person who was granted
2 an exclusion under a former version of this subdivision would not
3 qualify for an exclusion under the current version of this
4 subdivision, the department shall rescind the exclusion, make a
5 reasonable effort to provide notification to the person that the
6 exclusion has been rescinded, and, no sooner than 30 days after
7 notification is attempted, make information about the offender
8 available to the public on the Internet Web site as provided in this
9 section.

10 (4) Effective January 1, 2012, no person shall be excluded
11 pursuant to this subdivision unless the offender has submitted to
12 the department documentation sufficient for the department to
13 determine that he or she has a SARATSO risk level of low or
14 moderate-low.

15 (f) The Department of Justice shall make a reasonable effort to
16 provide notification to persons who have been convicted of the
17 commission or attempted commission of an offense specified in
18 subdivision (b), (c), or (d), that on or before July 1, 2005, the
19 department is required to make information about specified sex
20 offenders available to the public via an Internet Web site as
21 specified in this section. The Department of Justice shall also make
22 a reasonable effort to provide notice that some offenders are
23 eligible to apply for exclusion from the Internet Web site.

24 (g) (1) A designated law enforcement entity, as defined in
25 subdivision (f) of Section 290.45, may make available information
26 concerning persons who are required to register pursuant to Section
27 290 to the public via an Internet Web site as specified in paragraph
28 (2).

29 (2) The law enforcement entity may make available by way of
30 an Internet Web site the information described in subdivision (c)
31 if it determines that the public disclosure of the information about
32 a specific offender by way of the entity's Internet Web site is
33 necessary to ensure the public safety based upon information
34 available to the entity concerning that specific offender.

35 (3) The information that may be provided pursuant to this
36 subdivision may include the information specified in subdivision
37 (b) of Section 290.45. However, that offender's address may not
38 be disclosed unless he or she is a person whose address is on the
39 Department of Justice's Internet Web site pursuant to subdivision
40 (b) or (c).

1 (h) For purposes of this section, “offense” includes the statutory
2 predecessors of that offense, or any offense committed in another
3 jurisdiction that, if committed or attempted to be committed in this
4 state, would have been punishable in this state as an offense listed
5 in subdivision (c) of Section 290.

6 (i) Notwithstanding Section 6254.5 of the Government Code,
7 disclosure of information pursuant to this section is not a waiver
8 of exemptions under Chapter 3.5 (commencing with Section 6250)
9 of Title 1 of Division 7 of the Government Code and does not
10 affect other statutory restrictions on disclosure in other situations.

11 (j) (1) Any person who uses information disclosed pursuant to
12 this section to commit a misdemeanor shall be subject to, in
13 addition to any other penalty or fine imposed, a fine of not less
14 than ten thousand dollars (\$10,000) and not more than fifty
15 thousand dollars (\$50,000).

16 (2) Any person who uses information disclosed pursuant to this
17 section to commit a felony shall be punished, in addition and
18 consecutive to any other punishment, by a five-year term of
19 imprisonment in the state prison.

20 (k) Any person who is required to register pursuant to Section
21 290 who enters an Internet Web site established pursuant to this
22 section shall be punished by a fine not exceeding one thousand
23 dollars (\$1,000), imprisonment in a county jail for a period not to
24 exceed six months, or by both that fine and imprisonment.

25 (l) (1) A person is authorized to use information disclosed
26 pursuant to this section only to protect a person at risk.

27 (2) Except as authorized under paragraph (1) or any other
28 provision of law, use of any information that is disclosed pursuant
29 to this section for purposes relating to any of the following is
30 prohibited:

- 31 (A) Health insurance.
- 32 (B) Insurance.
- 33 (C) Loans.
- 34 (D) Credit.
- 35 (E) Employment.
- 36 (F) Education, scholarships, or fellowships.
- 37 (G) Housing or accommodations.
- 38 (H) Benefits, privileges, or services provided by any business
39 establishment.

1 (3) This section shall not affect authorized access to, or use of,
2 information pursuant to, among other provisions, Sections 11105
3 and 11105.3, Section 8808 of the Family Code, Sections 777.5
4 and 14409.2 of the Financial Code, Sections 1522.01 and 1596.871
5 of the Health and Safety Code, and Section 432.7 of the Labor
6 Code.

7 (4) (A) Any use of information disclosed pursuant to this section
8 for purposes other than those provided by paragraph (1) or in
9 violation of paragraph (2) shall make the user liable for the actual
10 damages, and any amount that may be determined by a jury or a
11 court sitting without a jury, not exceeding three times the amount
12 of actual damage, and not less than two hundred fifty dollars
13 (\$250), and attorney's fees, exemplary damages, or a civil penalty
14 not exceeding twenty-five thousand dollars (\$25,000).

15 (B) Whenever there is reasonable cause to believe that any
16 person or group of persons is engaged in a pattern or practice of
17 misuse of the information available via an Internet Web site
18 established pursuant to this section in violation of paragraph (2),
19 the Attorney General, any district attorney, or city attorney, or any
20 person aggrieved by the misuse is authorized to bring a civil action
21 in the appropriate court requesting preventive relief, including an
22 application for a permanent or temporary injunction, restraining
23 order, or other order against the person or group of persons
24 responsible for the pattern or practice of misuse. The foregoing
25 remedies shall be independent of any other remedies or procedures
26 that may be available to an aggrieved party under other provisions
27 of law, including Part 2 (commencing with Section 43) of Division
28 1 of the Civil Code.

29 (m) The public notification provisions of this section are
30 applicable to every person described in this section, without regard
31 to when his or her crimes were committed or his or her duty to
32 register pursuant to Section 290 arose, and to every offense
33 described in this section, regardless of when it was committed.

34 (n) On or before July 1, 2006, and every year thereafter, the
35 Department of Justice shall make a report to the Legislature
36 concerning the operation of this section.

37 (o) A designated law enforcement entity and its employees shall
38 be immune from liability for good faith conduct under this section.

39 (p) The Attorney General, in collaboration with local law
40 enforcement and others knowledgeable about sex offenders, shall

1 develop strategies to assist members of the public in understanding
2 and using publicly available information about registered sex
3 offenders to further public safety. These strategies may include,
4 but are not limited to, a hotline for community inquiries,
5 neighborhood and business guidelines for how to respond to
6 information posted on this Web site, and any other resource that
7 promotes public education about these offenders.

8 *SEC. 37. Section 296.2 of the Penal Code is amended to read:*

9 296.2. (a) Whenever the DNA Laboratory of the Department
10 of Justice notifies the Department of Corrections *and Rehabilitation*
11 or any law enforcement agency that a biological specimen or
12 sample, or print impression is not usable for any reason, the person
13 who provided the original specimen, sample, or print impression
14 shall submit to collection of additional specimens, samples, or
15 print impressions. The Department of Corrections *and*
16 *Rehabilitation* or other responsible law enforcement agency shall
17 collect additional specimens, samples, and print impressions from
18 these persons as necessary to fulfill the requirements of this
19 chapter, and transmit these specimens, samples, and print
20 impressions to the appropriate agencies of the Department of
21 Justice.

22 (b) If a person, including any juvenile, is convicted of, pleads
23 guilty or no contest to, is found not guilty by reason of insanity
24 of, or is adjudged a ward of the court under Section 602 of the
25 Welfare and Institutions Code for committing, any of the offenses
26 described in subdivision (a) of Section 296, and has given a blood
27 specimen or other biological sample or samples to law enforcement
28 for any purpose, the DNA Laboratory of the Department of Justice
29 is authorized to analyze the blood specimen and other biological
30 sample or samples for forensic identification markers, including
31 DNA markers, and to include the DNA and forensic identification
32 profiles from these specimens and samples in the state's DNA and
33 forensic identification data bank and data bases.

34 This subdivision applies whether or not the blood specimen or
35 other biological sample originally was collected from the sexual
36 or violent offender pursuant to the data bank and data base
37 program, and whether or not the crime committed predated the
38 enactment of the state's DNA and forensic identification data bank
39 program, or any amendments thereto. This subdivision does not
40 relieve a person convicted of a crime described in subdivision (a)

1 of Section 296, or otherwise subject to this chapter, from the
2 requirement to give blood specimens, saliva samples, and thumb
3 and palm print impressions for the DNA and forensic identification
4 data bank and data base program as described in this chapter.

5 (c) Any person who is required to register under ~~Section 290~~
6 ~~for the commission of any felony offense specified in Section 290~~
7 *the Sex Offender Registration Act* who has not provided the
8 specimens, samples, and print impressions described in this chapter
9 for any reason including the release of the person prior to the
10 enactment of the state's DNA and forensic identification data base
11 and data bank program, an oversight or error, or because of the
12 transfer of the person from another state, the person, as an
13 additional requirement of registration or of updating his or her
14 annual registration ~~under paragraph (1) of subdivision (a) of~~
15 ~~Section 290 and subdivisions (e) and (f) of Section 290 pursuant~~
16 *to the Sex Offender Registration Act* shall give specimens, samples,
17 and print impressions as described in this chapter for inclusion in
18 the state's DNA and forensic identification data base and data
19 bank.

20 At the time the person registers or updates his or her registration,
21 he or she shall receive an appointment designating a time and place
22 for the collection of the specimens, samples, and print impressions
23 described in this chapter, if he or she has not already complied
24 with the provisions of this chapter.

25 As specified in the appointment, the person shall report to a
26 county jail facility in the county where he or she resides or is
27 temporarily located to have specimens, samples, and print
28 impressions collected pursuant to this chapter or other facility
29 approved by the Department of Justice for this collection. The
30 specimens, samples, and print impressions shall be collected in
31 accordance with subdivision (f) of Section 295.

32 If, prior to the time of the annual registration update, a person
33 is notified by the Department of Justice, a probation or parole
34 officer, other law enforcement officer, or officer of the court, that
35 he or she is subject to this chapter, then the person shall provide
36 the specimens, samples, and print impressions required by this
37 chapter within 10 calendar days of the notification at a county jail
38 facility or other facility approved by the department for this
39 collection.

40 SEC. 38. *Section 311.11 of the Penal Code is amended to read:*

1 311.11. (a) Every person who knowingly possesses or controls
2 any matter, representation of information, data, or image, including,
3 but not limited to, any film, filmstrip, photograph, negative, slide,
4 photocopy, videotape, video laser disc, computer hardware,
5 computer software, computer floppy disc, data storage media,
6 CD-ROM, or computer-generated equipment or any other
7 computer-generated image that contains or incorporates in any
8 manner, any film or filmstrip, the production of which involves
9 the use of a person under the age of 18 years, knowing that the
10 matter depicts a person under the age of 18 years personally
11 engaging in or simulating sexual conduct, as defined in subdivision
12 (d) of Section 311.4, is guilty of a felony and shall be punished by
13 imprisonment in the state prison, or a county jail for up to one
14 year, or by a fine not exceeding two thousand five hundred dollars
15 (\$2,500), or by both the fine and imprisonment.

16 (b) Every person who commits a violation of subdivision (a),
17 and who has been previously convicted of a violation of this
18 section, an offense described in subparagraph (A) of paragraph
19 (2) of subdivision (a) of Section 290 requiring registration under
20 the Sex Offender Registration Act, or an attempt to commit any of
21 the above-mentioned offenses, is guilty of a felony and shall be
22 punished by imprisonment in the state prison for two, four, or six
23 years.

24 (c) It is not necessary to prove that the matter is obscene in order
25 to establish a violation of this section.

26 (d) This section does not apply to drawings, figurines, statues,
27 or any film rated by the Motion Picture Association of America,
28 nor does it apply to live or recorded telephone messages when
29 transmitted, disseminated, or distributed as part of a commercial
30 transaction.

31 *SEC. 39. Section 646.9 of the Penal Code is amended to read:*

32 646.9. (a) Any person who willfully, maliciously, and
33 repeatedly follows or willfully and maliciously harasses another
34 person and who makes a credible threat with the intent to place
35 that person in reasonable fear for his or her safety, or the safety of
36 his or her immediate family is guilty of the crime of stalking,
37 punishable by imprisonment in a county jail for not more than one
38 year, or by a fine of not more than one thousand dollars (\$1,000),
39 or by both that fine and imprisonment, or by imprisonment in the
40 state prison.

(b) Any person who violates subdivision (a) when there is a temporary restraining order, injunction, or any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) (1) Every person who, after having been convicted of a felony under Section 273.5, 273.6, or 422, commits a violation of subdivision (a) shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison for two, three, or five years.

(2) Every person who, after having been convicted of a felony under subdivision (a), commits a violation of this section shall be punished by imprisonment in the state prison for two, three, or five years.

(d) In addition to the penalties provided in this section, the sentencing court may order a person convicted of a felony under this section to register as a sex offender pursuant to ~~subparagraph (E) of paragraph (2) of subdivision (a) of Section 290~~ *Section 290.006*.

(e) For the purposes of this section, “harasses” means engages in a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose.

(f) For the purposes of this section, “course of conduct” means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(g) For the purposes of this section, “credible threat” means a verbal or written threat, including that performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent to place the person that is the target of the threat in reasonable fear for his or her safety or the safety of his or her family, and made with the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her family. It is not necessary to prove that the defendant had the intent to actually carry out the threat. The present incarceration of a

1 person making the threat shall not be a bar to prosecution under
2 this section. Constitutionally protected activity is not included
3 within the meaning of “credible threat.”

4 (h) For purposes of this section, the term “electronic
5 communication device” includes, but is not limited to, telephones,
6 cellular phones, computers, video recorders, fax machines, or
7 pagers. “Electronic communication” has the same meaning as the
8 term defined in Subsection 12 of Section 2510 of Title 18 of the
9 United States Code.

10 (i) This section shall not apply to conduct that occurs during
11 labor picketing.

12 (j) If probation is granted, or the execution or imposition of a
13 sentence is suspended, for any person convicted under this section,
14 it shall be a condition of probation that the person participate in
15 counseling, as designated by the court. However, the court, upon
16 a showing of good cause, may find that the counseling requirement
17 shall not be imposed.

18 (k) The sentencing court also shall consider issuing an order
19 restraining the defendant from any contact with the victim, that
20 may be valid for up to 10 years, as determined by the court. It is
21 the intent of the Legislature that the length of any restraining order
22 be based upon the seriousness of the facts before the court, the
23 probability of future violations, and the safety of the victim and
24 his or her immediate family.

25 (l) For purposes of this section, “immediate family” means any
26 spouse, parent, child, any person related by consanguinity or
27 affinity within the second degree, or any other person who regularly
28 resides in the household, or who, within the prior six months,
29 regularly resided in the household.

30 (m) The court shall consider whether the defendant would
31 benefit from treatment pursuant to Section 2684. If it is determined
32 to be appropriate, the court shall recommend that the Department
33 of Corrections *and Rehabilitation* make a certification as provided
34 in Section 2684. Upon the certification, the defendant shall be
35 evaluated and transferred to the appropriate hospital for treatment
36 pursuant to Section 2684.

37 *SEC. 39.5. Section 646.9 of the Penal Code is amended to*
38 *read:*

39 646.9. (a) Any person who willfully, maliciously, and
40 repeatedly follows or willfully and maliciously harasses another

1 person and who makes a credible threat with the intent to place
2 that person in reasonable fear for his or her safety, or the safety of
3 his or her immediate family is guilty of the crime of stalking,
4 punishable by imprisonment in a county jail for not more than one
5 year, or by a fine of not more than one thousand dollars (\$1,000),
6 or by both that fine and imprisonment, or by imprisonment in the
7 state prison.

8 (b) Any person who violates subdivision (a) when there is a
9 temporary restraining order, injunction, or any other court order
10 in effect prohibiting the behavior described in subdivision (a)
11 against the same party, shall be punished by imprisonment in the
12 state prison for two, three, or four years.

13 (c) (1) Every person who, after having been convicted of a
14 felony under Section 273.5, 273.6, or 422, commits a violation of
15 subdivision (a) shall be punished by imprisonment in a county jail
16 for not more than one year, or by a fine of not more than one
17 thousand dollars (\$1,000), or by both that fine and imprisonment,
18 or by imprisonment in the state prison for two, three, or five years.

19 (2) Every person who, after having been convicted of a felony
20 under subdivision (a), commits a violation of this section shall be
21 punished by imprisonment in the state prison for two, three, or
22 five years.

23 (d) In addition to the penalties provided in this section, the
24 sentencing court may order a person convicted of a felony under
25 this section to register as a sex offender pursuant to ~~subparagraph~~
26 ~~(E) of paragraph (2) of subdivision (a) of Section 290.006.~~

27 (e) For the purposes of this section, “harasses” means engages
28 in a knowing and willful course of conduct directed at a specific
29 person that seriously alarms, annoys, torments, or terrorizes the
30 person, and that serves no legitimate purpose.

31 (f) For the purposes of this section, “course of conduct” means
32 two or more acts occurring over a period of time, however short,
33 evidencing a continuity of purpose. Constitutionally protected
34 activity is not included within the meaning of “course of conduct.”

35 (g) For the purposes of this section, “credible threat” means a
36 verbal or written threat, including that performed through the use
37 of an electronic communication device, or a threat implied by a
38 pattern of conduct or a combination of verbal, written, or
39 electronically communicated statements and conduct, made with
40 the intent to place the person that is the target of the threat in

1 reasonable fear for his or her safety or the safety of his or her
2 family, and made with the apparent ability to carry out the threat
3 so as to cause the person who is the target of the threat to
4 reasonably fear for his or her safety or the safety of his or her
5 family. It is not necessary to prove that the defendant had the intent
6 to actually carry out the threat. The present incarceration of a
7 person making the threat shall not be a bar to prosecution under
8 this section. Constitutionally protected activity is not included
9 within the meaning of “credible threat.”

10 (h) For purposes of this section, the term “electronic
11 communication device” includes, but is not limited to, telephones,
12 cellular phones, computers, video recorders, fax machines, or
13 pagers. “Electronic communication” has the same meaning as the
14 term defined in Subsection 12 of Section 2510 of Title 18 of the
15 United States Code.

16 (i) This section shall not apply to conduct that occurs during
17 labor picketing.

18 (j) If probation is granted, or the execution or imposition of a
19 sentence is suspended, for any person convicted under this section,
20 it shall be a condition of probation that the person participate in
21 counseling, as designated by the court. However, the court, upon
22 a showing of good cause, may find that the counseling requirement
23 shall not be imposed.

24 (k) (1) The sentencing court also shall consider issuing an order
25 restraining the defendant from any contact with the victim, that
26 may be valid for up to 10 years, as determined by the court. It is
27 the intent of the Legislature that the length of any restraining order
28 be based upon the seriousness of the facts before the court, the
29 probability of future violations, and the safety of the victim and
30 his or her immediate family.

31 (2) *This protective order may be issued by the court whether*
32 *the defendant is sentenced to state prison, county jail, or if*
33 *imposition of sentence is suspended and the defendant is placed*
34 *on probation.*

35 (l) For purposes of this section, “immediate family” means any
36 spouse, parent, child, any person related by consanguinity or
37 affinity within the second degree, or any other person who regularly
38 resides in the household, or who, within the prior six months,
39 regularly resided in the household.

(m) The court shall consider whether the defendant would benefit from treatment pursuant to Section 2684. If it is determined to be appropriate, the court shall recommend that the Department of Corrections *and Rehabilitation* make a certification as provided in Section 2684. Upon the certification, the defendant shall be evaluated and transferred to the appropriate hospital for treatment pursuant to Section 2684.

SEC. 40. Section 801.1 of the Penal Code is amended to read:

801.1. (a) Notwithstanding any other limitation of time described in this chapter, prosecution for a felony offense described in Section 261, 286, 288, 288.5, 288a, or 289, or Section 289.5, as enacted by Chapter 293 of the Statutes of 1991 relating to penetration by an unknown object, that is alleged to have been committed when the victim was under the age of 18 years, may be commenced any time prior to the victim's 28th birthday.

(b) Notwithstanding any other limitation of time described in this chapter, if subdivision (a) does not apply, prosecution for a felony offense described in ~~subparagraph (A) of paragraph (2) of subdivision (a)~~ subdivision (c) of Section 290 shall be commenced within 10 years after commission of the offense.

SEC. 41. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until the discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, 134, or 186.10.

1 (3) A violation of Section 25540, of any type, or Section 25541
2 of the Corporations Code.

3 (4) A violation of Section 1090 or 27443 of the Government
4 Code.

5 (5) Felony welfare fraud or Medi-Cal fraud in violation of
6 Section 11483 or 14107 of the Welfare and Institutions Code.

7 (6) Felony insurance fraud in violation of Section 548 or 550
8 of this code or former Section 1871.1, or Section 1871.4, of the
9 Insurance Code.

10 (7) A violation of Section 580, 581, 582, 583, or 584 of the
11 Business and Professions Code.

12 (8) A violation of Section 22430 of the Business and Professions
13 Code.

14 (9) A violation of Section 10690 of the Health and Safety Code.

15 (10) A violation of Section 529a.

16 (11) A violation of subdivision (d) or (e) of Section 368.

17 (d) If the defendant is out of the state when or after the offense
18 is committed, the prosecution may be commenced as provided in
19 Section 804 within the limitations of time prescribed by this
20 chapter, and no time up to a maximum of three years during which
21 the defendant is not within the state shall be a part of those
22 limitations.

23 (e) A limitation of time prescribed in this chapter does not
24 commence to run until the offense has been discovered, or could
25 have reasonably been discovered, with regard to offenses under
26 Division 7 (commencing with Section 13000) of the Water Code,
27 under Chapter 6.5 (commencing with Section 25100) of, Chapter
28 6.7 (commencing with Section 25280) of, or Chapter 6.8
29 (commencing with Section 25300) of, Division 20 of, or Part 4
30 (commencing with Section 41500) of Division 26 of, the Health
31 and Safety Code, or under Section 386, or offenses under Chapter
32 5 (commencing with Section 2000) of Division 2 of, Chapter 9
33 (commencing with Section 4000) of Division 2 of, Section 6126
34 of, Chapter 10 (commencing with Section 7301) of Division 3 of,
35 or Chapter 19.5 (commencing with Section 22440) of Division 8
36 of, the Business and Professions Code.

37 (f) (1) Notwithstanding any other limitation of time described
38 in this chapter, a criminal complaint may be filed within one year
39 of the date of a report to a California law enforcement agency by
40 a person of any age alleging that he or she, while under the age of

1 18 years, was the victim of a crime described in Section 261, 286,
2 288, 288a, 288.5, or 289, or Section 289.5, as enacted by Chapter
3 293 of the Statutes of 1991 relating to penetration by an unknown
4 object.

5 (2) This subdivision applies only if all of the following occur:

6 (A) The limitation period specified in Section 800, 801, or 801.1,
7 whichever is later, has expired.

8 (B) The crime involved substantial sexual conduct, as described
9 in subdivision (b) of Section 1203.066, excluding masturbation
10 that is not mutual.

11 (C) There is independent evidence that corroborates the victim's
12 allegation. If the victim was 21 years of age or older at the time
13 of the report, the independent evidence shall clearly and
14 convincingly corroborate the victim's allegation.

15 (3) No evidence may be used to corroborate the victim's
16 allegation that otherwise would be inadmissible during trial.
17 Independent evidence does not include the opinions of mental
18 health professionals.

19 (4) (A) In a criminal investigation involving any of the crimes
20 listed in paragraph (1) committed against a child, when the
21 applicable limitations period has not expired, that period shall be
22 tolled from the time a party initiates litigation challenging a grand
23 jury subpoena until the end of the litigation, including any
24 associated writ or appellate proceeding, or until the final disclosure
25 of evidence to the investigating or prosecuting agency, if that
26 disclosure is ordered pursuant to the subpoena after the litigation.

27 (B) Nothing in this subdivision affects the definition or
28 applicability of any evidentiary privilege.

29 (C) This subdivision shall not apply where a court finds that the
30 grand jury subpoena was issued or caused to be issued in bad faith.

31 (g) (1) Notwithstanding any other limitation of time described
32 in this chapter, a criminal complaint may be filed within one year
33 of the date on which the identity of the suspect is conclusively
34 established by DNA testing, if both of the following conditions
35 are met:

36 (A) The crime is one that is described in ~~subparagraph (A) of~~
37 ~~paragraph (2) of subdivision (a)~~ *subdivision (c)* of Section 290.

38 (B) The offense was committed prior to January 1, 2001, and
39 biological evidence collected in connection with the offense is
40 analyzed for DNA type no later than January 1, 2004, or the offense

1 was committed on or after January 1, 2001, and biological evidence
2 collected in connection with the offense is analyzed for DNA type
3 no later than two years from the date of the offense.

4 (2) For purposes of this section, “DNA” means deoxyribonucleic
5 acid.

6 (h) For any crime, the proof of which depends substantially
7 upon evidence that was seized under a warrant, but which is
8 unavailable to the prosecuting authority under the procedures
9 described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th
10 703, *People v. Superior Court (Bauman & Rose)* (1995) 37
11 Cal.App.4th 1757, or subdivision (c) of Section 1524, relating to
12 claims of evidentiary privilege or attorney work product, the
13 limitation of time prescribed in this chapter shall be tolled from
14 the time of the seizure until final disclosure of the evidence to the
15 prosecuting authority. Nothing in this section otherwise affects
16 the definition or applicability of any evidentiary privilege or
17 attorney work product.

18 *SEC. 42. Section 1202.7 of the Penal Code is amended to read:*

19 1202.7. The Legislature finds and declares that the provision
20 of probation services is an essential element in the administration
21 of criminal justice. The safety of the public, which shall be a
22 primary goal through the enforcement of court-ordered conditions
23 of probation; the nature of the offense; the interests of justice,
24 including punishment, reintegration of the offender into the
25 community, and enforcement of conditions of probation; the loss
26 to the victim; and the needs of the defendant shall be the primary
27 considerations in the granting of probation. It is the intent of the
28 Legislature that efforts be made with respect to persons who are
29 subject to ~~subparagraph (C) of paragraph (1) of subdivision (a) of~~
30 ~~Section 290~~ *Section 290.011* who are on probation to engage them
31 in treatment.

32 *SEC. 43. Section 1417.8 of the Penal Code is amended to read:*

33 1417.8. (a) Notwithstanding any other provision of this chapter,
34 the court shall direct that any photograph of any minor that has
35 been found by the court to be harmful matter, as defined in Section
36 313, and introduced or filed as an exhibit in any criminal
37 proceeding specified in subdivision (b) be handled as follows:

38 (1) Prior to the final determination of the action or proceeding,
39 the photograph shall be available only to the parties or to a person
40 named in a court order to receive the photograph.

(2) After the final determination of the action or proceeding, the photograph shall be preserved with the permanent record maintained by the clerk of the court. The photograph may be disposed of or destroyed after preservation through any appropriate photographic or electronic medium. If the photograph is disposed of, it shall be rendered unidentifiable before the disposal. No person shall have access to the photograph unless that person has been named in a court order to receive the photograph. Any copy, negative, reprint, or other duplication of the photograph in the possession of the state, a state agency, the defendant, or an agent of the defendant, shall be delivered to the clerk of the court for disposal whether or not the defendant was convicted of the offense.

(b) The procedure provided by subdivision (a) shall apply to actions listed under ~~subparagraph (A) of paragraph (2) of subdivision (a)~~ *subdivision (c)* of Section 290, and to ~~actions~~ *acts* under the following provisions:

(1) Section 261.5.

(2) Section 272.

(3) Chapter 7.5 (commencing with Section 311) of Title 9 of Part 1.

(4) Chapter 7.6 (commencing with Section 313) of Title 9 of Part 1.

(c) For the purposes of this section, “photograph” means any photographic image contained in a digital format or on any chemical, mechanical, magnetic, or electronic medium.

~~SEC. 6.~~

SEC. 44. Section 3000 of the Penal Code is amended to read:

3000. (a) (1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections and Rehabilitation for parole functions for which the

1 department is responsible. It is also not the intent of this section
2 to diminish the resources allocated to the Board of Parole Hearings
3 to execute its duties with respect to parole functions for which the
4 board is responsible.

5 (3) The Legislature finds and declares that diligent effort must
6 be made to ensure that parolees are held accountable for their
7 criminal behavior, including, but not limited to, the satisfaction of
8 restitution fines and orders.

9 (4) The parole period of any person found to be a sexually
10 violent predator shall be tolled until that person is found to no
11 longer be a sexually violent predator, at which time the period of
12 parole, or any remaining portion thereof, shall begin to run.

13 (b) Notwithstanding any provision to the contrary in Article 3
14 (commencing with Section 3040) of this chapter, the following
15 shall apply:

16 (1) At the expiration of a term of imprisonment of one year and
17 one day, or a term of imprisonment imposed pursuant to Section
18 1170 or at the expiration of a term reduced pursuant to Section
19 2931 or 2933, if applicable, the inmate shall be released on parole
20 for a period not exceeding three years, except that any inmate
21 sentenced for an offense specified in paragraph (3), (4), (5), (6),
22 (11), (16), or (18) of subdivision (c) of Section 667.5 shall be
23 released on parole for a period not exceeding five years, unless in
24 either case the parole authority for good cause waives parole and
25 discharges the inmate from the custody of the department.

26 (2) In the case of any inmate sentenced under Section 1168, the
27 period of parole shall not exceed five years in the case of an inmate
28 imprisoned for any offense other than first or second degree murder
29 for which the inmate has received a life sentence, and shall not
30 exceed three years in the case of any other inmate, unless in either
31 case the parole authority for good cause waives parole and
32 discharges the inmate from custody of the department. This
33 subdivision shall also be applicable to inmates who committed
34 crimes prior to July 1, 1977, to the extent specified in Section
35 1170.2.

36 (3) Notwithstanding paragraphs (1) and (2), in the case of any
37 offense for which the inmate has received a life sentence pursuant
38 to Section 667.61 or 667.71, the period of parole shall be 10 years.

39 (4) The parole authority shall consider the request of any inmate
40 regarding the length of his or her parole and the conditions thereof.

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), or (3), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), and (3) shall be computed from the date of initial parole and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, the period of parole is subject to the following:

(A) Except as provided in Section 3064, in no case may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial parole.

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

(6) The Department of Corrections and Rehabilitation shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections and Rehabilitation or the Board of Parole Hearings may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(7) For purposes of this chapter, the Board of Parole Hearings shall be considered the parole authority.

(8) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Parole Hearings, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

(9) It is the intent of the Legislature that efforts be made with respect to persons who are subject to Section 290.011 who are on parole to engage them in treatment.

SEC. 45. Section 3000.07 of the Penal Code is amended to read:

3000.07. (a) Every inmate who has been convicted for any felony violation of a “registerable sex offense” described in ~~subparagraph (A) of paragraph (2) of subdivision (a)~~ *subdivision (c)* of Section 290 or any attempt to commit any of the above-mentioned offenses and who is committed to prison and released on parole pursuant to Section 3000 or 3000.1 shall be monitored by a global positioning system for the term of his or her parole, or for the duration or any remaining part thereof, whichever period of time is less.

(b) Any inmate released on parole pursuant to this section shall be required to pay for the costs associated with the monitoring by a global positioning system. However, the Department of Corrections *and Rehabilitation* shall waive any or all of that payment upon a finding of an inability to pay. The department shall consider any remaining amounts the inmate has been ordered to pay in fines, assessments and restitution fines, fees, and orders, and shall give priority to the payment of those items before requiring that the inmate pay for the global positioning monitoring. No inmate shall be denied parole on the basis of his or her inability to pay for those monitoring costs.

SEC. 46. Section 3004 of the Penal Code is amended to read:

3004. (a) Notwithstanding any other law, the parole authority may require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with all other conditions of parole. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the parolee and the

1 agent supervising the parolee which is to be used solely for the
2 purposes of voice identification.

3 (b) Every inmate who has been convicted for any felony
4 violation of a “registerable sex offense” described in ~~subparagraph~~
5 ~~(A) of paragraph (2) of subdivision (a)~~ *subdivision (c)* of Section
6 290 or any attempt to commit any of the above-mentioned offenses
7 and who is committed to prison and released on parole pursuant
8 to Section 3000 or 3000.1 shall be monitored by a global
9 positioning system for life.

10 (c) Any inmate released on parole pursuant to this section shall
11 be required to pay for the costs associated with the monitoring by
12 a global positioning system. However, the Department of
13 Corrections *and Rehabilitation* shall waive any or all of that
14 payment upon a finding of an inability to pay. The department
15 shall consider any remaining amounts the inmate has been ordered
16 to pay in fines, assessments and restitution fines, fees, and orders,
17 and shall give priority to the payment of those items before
18 requiring that the inmate pay for the global positioning monitoring.

19 ~~SEC. 7.~~

20 *SEC. 47.* Section 3005 of the Penal Code is amended and
21 renumbered to read:

22 3008. (a) The Department of Corrections and Rehabilitation
23 shall ensure that all parolees under active supervision who are
24 deemed to pose a high risk to the public of committing sex crimes,
25 as determined by the State-Authorized Risk Assessment Tool for
26 Sex Offenders (SARATSO), as set forth in Sections 290.04 to
27 290.06, inclusive, are placed on intensive and specialized parole
28 supervision and are required to report frequently to designated
29 parole officers. The department may place any other parolee
30 convicted of an offense that requires him or her to register as a sex
31 offender pursuant to Section 290 who is on active supervision on
32 intensive and specialized supervision and require him or her to
33 report frequently to designated parole officers.

34 (b) The department shall develop and, at the discretion of the
35 secretary, and subject to an appropriation of the necessary funds,
36 may implement a plan for the implementation of relapse prevention
37 treatment programs, and the provision of other services deemed
38 necessary by the department, in conjunction with intensive and
39 specialized parole supervision, to reduce the recidivism of sex
40 offenders.

(c) The department shall develop control and containment programming for sex offenders who have been deemed to pose a high risk to the public of committing a sex crime, as determined by the SARATSO, and shall require participation in appropriate programming as a condition of parole.

SEC. 48. Section 3060.6 of the Penal Code is amended to read:

3060.6. Notwithstanding any other provision of law, on or after January 1, 2001, whenever any paroled person is returned to custody or has his or her parole revoked for conduct described in ~~subparagraph (A) of paragraph (2) of subdivision (a)~~ *subdivision (c)* of Section 290, the parole authority shall report the circumstances that were the basis for the return to custody or revocation of parole to the law enforcement agency and the district attorney that has primary jurisdiction over the community in which the circumstances occurred and to the Department of Corrections *and Rehabilitation*. Upon the release of the paroled person, the Department of Corrections *and Rehabilitation* shall inform the law enforcement agency and the district attorney that has primary jurisdiction over the community in which the circumstances occurred and, if different, the county in which the person is paroled or discharged, of the circumstances that were the basis for the return to custody or revocation of parole.

~~SEC. 8:~~

SEC. 49. Section 5054.1 of the Penal Code is amended to read:

5054.1. The Secretary of ~~Department~~ *the Department of Corrections and Rehabilitation* has full power to order returned to custody any person under the secretary's jurisdiction. The written order of the secretary shall be sufficient warrant for any peace officer to return to actual custody any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody. All peace officers shall execute an order as otherwise provided by law.

~~SEC. 9:~~

SEC. 50. Section 5054.2 of the Penal Code is amended to read:

5054.2. Whenever a person is incarcerated in a state prison for violating Section 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289, and the victim of one or more of those offenses is a child under the age of 18 years, the Secretary of the Department of Corrections and Rehabilitation shall protect the interest of that child victim by prohibiting visitation between the incarcerated

1 person and the child victim pursuant to Section 1202.05. The
2 secretary shall allow visitation only when the juvenile court,
3 pursuant to Section 362.6 of the Welfare and Institutions Code,
4 finds that visitation between the incarcerated person and his or her
5 child victim is in the best interests of the child victim.

6 *SEC. 51. (a) Section 1.5 of this bill incorporates amendments*
7 *to Section 1522 of the Health and Safety Code proposed by both*
8 *this bill and SB 776. It shall only become operative if (1) both bills*
9 *are enacted and become effective on or before January 1, 2008,*
10 *(2) each bill amends Section 1522 of the Health and Safety Code,*
11 *and (3) this bill is enacted after SB 776, in which case Section*
12 *1522 of the Health and Safety Code, as amended by Section 1 of*
13 *this bill, shall remain operative only until the operative date of SB*
14 *776, at which time Section 1.5 of this bill shall become operative.*

15 *(b) Section 39.5 of this bill incorporates amendments to Section*
16 *646.9 of the Penal Code proposed by both this bill and AB 289. It*
17 *shall only become operative if (1) both bills are enacted and*
18 *become effective on or before January 1, 2008, (2) each bill*
19 *amends Section 646.9 of the Penal Code, and (3) this bill is enacted*
20 *after AB 289, in which case Section 646.9 of the Penal Code, as*
21 *amended by Section 39 of this bill, shall remain operative only*
22 *until the operative date of AB 289, at which time Section 39.5 of*
23 *this bill shall become operative.*

24 *SEC. 52. It is the intent of the Legislature that any reference*
25 *to Section 290 of the Penal Code that appears in any other*
26 *provision of a bill enacted during the 2007–08 Regular Session*
27 *be construed to refer to a corresponding provision of Section 290*
28 *of the Penal Code as renumbered by this act.*

29 ~~SEC. 10.~~

30 *SEC. 53. This act is an urgency statute necessary for the*
31 *immediate preservation of the public peace, health, or safety within*
32 *the meaning of Article IV of the Constitution and shall go into*
33 *immediate effect. The facts constituting the necessity are:*

34 *In order to ensure that conforming changes are made to laws*
35 *relating to sex offenders, it is necessary that this act take effect*
36 *immediately.*